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# THE GENERAL STATUTES OF NORTH CAROLINA

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1983 SUPPLEMENT

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Annotated, under the Supervision of the Department of  
Justice, by the Editorial Staff of the Publishers

*Under the Direction of*  
D. P. HARRIMAN, S. C. WILLARD, W. L. JACKSON  
AND K. S. MAWYER

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OCT 31 1983

## Volume 3D, Part II

1982 Replacement

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Annotated through 303 S.E.2d 102. For complete scope of  
annotations, see scope of volume page.

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Place in Pocket of Corresponding Volume of Main Set.

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## Scope of Volume

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### Statutes:

Permanent portions of the general laws enacted by the General Assembly through the 1983 Regular Session and the 1983 Extra Session affecting Chapters 161 through 168 of the General Statutes.

### Annotations:

Sources of the annotations to the General Statutes appearing in this volume are:

- South Eastern Reporter 2nd Series through Volume 303, p. 102.
- Federal Reporter 2nd Series through Volume 707, p. 523.
- Bankruptcy Reports through Volume 29, p. 815.
- Federal Supplement through Volume 562, p. 911.
- Federal Rules Decisions through Volume 97, p. 544.
- Supreme Court Reporter through Volume 103, p. 2468.
- North Carolina Law Review through Volume 61, p. 744.
- Wake Forest Law Review through Volume 19, p. 150.
- Campbell Law Review through Volume 5, p. 262.
- Duke Law Journal through 1983, p. 195.
- North Carolina Central Law Journal through Volume 13, p. 282.
- Opinions of the Attorney General.





## Preface

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This Supplement to Replacement Volume 3D, Part II contains the general laws of a permanent nature enacted by the General Assembly since publication of the replacement volume through the 1983 Regular Session and the 1983 Extra Session which are within the scope of such volume, and brings to date the annotations included therein.

Amendments are inserted under the same section numbers appearing in the General Statutes, and new laws appear under the proper chapter headings.

Chapter analyses show all affected sections except sections for which catchlines are carried for the purpose of notes only. An index to all statutes codified herein will appear in the Replacement Index Volumes.

A majority of the Session Laws are made effective upon ratification, but a few provide for stated effective dates. If the Session Law makes no provision for an effective date, the law becomes effective under G.S. 120-20 "from and after 30 days after the adjournment of the session" in which passed.

Beginning with the opinions issued by the North Carolina Attorney General on July 1, 1969, any opinion which construes a specific statute is cited as an annotation to that statute. For a copy of an opinion or of its headnotes write the Attorney General, P. O. Box 629, Raleigh, N.C. 27602.

The members of the North Carolina Bar are requested to communicate any defects they may find in the General Statutes or in this Supplement and any suggestions they may have for improving the General Statutes, to the Department of Justice of the State of North Carolina, or to The Michie Company, Law Publishers, Charlottesville, Virginia.





# The General Statutes of North Carolina

## 1983 Supplement

### VOLUME 3D, PART II

#### Chapter 161.

#### Register of Deeds.

##### Article 1.

##### The Office.

Sec.

- 161-10. Uniform fees of registers of deeds.  
161-11.1. Fees for Children's Trust Fund.

##### Article 2.

##### The Duties.

Sec.

- 161-22. Index of registered instruments.  
161-22.2. Parcel identifier number indexes.

#### ARTICLE 1.

#### *The Office.*

#### § 161-10. Uniform fees of registers of deeds.

(a) Except as provided in G.S. 130-40 or G.S. 161-11.1, all fees collected under this section shall be deposited into the county general fund. In the performance of his duties, the register of deeds shall collect the following fees which shall be uniform throughout the State:

- (1) Instruments in General. — For registering or filing any instrument for which no other provision is made by this section, whether written, printed, or typewritten, the fee shall be four dollars (\$4.00) for the first page, which page shall not exceed 8½ inches by 14 inches, plus one dollar and fifty cents (\$1.50) for each additional page or fraction thereof. A page exceeding 8½ inches by 14 inches shall be considered two pages.
- (2) Marriage Licenses. — For issuing a license — fifteen dollars (\$15.00); for issuing a delayed certificate with one certified copy — five dollars (\$5.00); and for a proceeding for correction of names in application, license or certificate, with one certified copy — five dollars (\$5.00).
- (3) Plats. — For each original or revised plat recorded — twelve dollars and fifty cents (\$12.50); for furnishing a certified copy of a plat — three dollars (\$3.00).
- (4) Right-of-Way Plans. — For each original or amended plan and profile sheet recorded — five dollars (\$5.00). This fee is to be collected from the Board of Transportation.
- (5) Registration of Birth Certificate One Year or More after Birth. — For preparation of necessary papers when birth to be registered in another county — five dollars (\$5.00); for registration when necessary papers prepared in another county, with one certified copy — five dollars (\$5.00); for preparation of necessary papers and registration in the same county, with one certified copy — ten dollars (\$10.00).
- (6) Amendment of Birth or Death Record. — For preparation of amendment and affecting correction — two dollars (\$2.00).



- (7) Legitimations. — For preparation of all documents concerned with legitimations — seven dollars (\$7.00).
  - (8) Certified Copies of Birth and Death Certificates and Marriage Licenses. — For furnishing a certified copy of a death or birth certificate or marriage license — three dollars (\$3.00).
  - (9) Certified Copies. — For furnishing a certified copy of an instrument for which no other provision is made by this section — three dollars (\$3.00) for the first page, plus one dollar (\$1.00) for each additional page or fraction thereof.
  - (10) Comparing Copy for Certification. — For comparing and certifying a copy of any instrument filed for registration, when the copy is furnished by the party filing the instrument for registration and at the time of filing thereof — two dollars (\$2.00).
  - (11) Uncertified Copies. — When, as a convenience to the public, the register of deeds supplies uncertified copies of instruments, he may charge fees that in his discretion bear a reasonable relation to the quality of copies supplied and the cost of purchasing and maintaining copying equipment. These fees may be changed from time to time, but the amount of these fees shall at all times be prominently posted in his office.
  - (12) Acknowledgment. — For taking an acknowledgment, oath, or affirmation or for the performance of any notarial act — one dollar (\$1.00). This fee shall not be charged if the act is performed as a part of one of the services for which a fee is provided by this subsection; except that this fee shall be charged in addition to the fees for registering, filing or recording instruments or plats as provided by subdivisions (1) and (3) of this subsection.
  - (13) Uniform Commercial Code. — Such fees as are provided for in Chapter 25, Article 9, Part 4, of the General Statutes.
  - (14) Torrens Registration. — Such fees as are provided in G.S. 43-5.
  - (15) Master Forms. — Such fees as are provided for instruments in general.
  - (16) Probate. — For certification of instruments for registration as provided in G.S. 47-14 — one dollar (\$1.00).
  - (17) Qualification of Notary Public. — For administering the oaths of office to a notary public and making the appropriate record entries as provided in G.S. 10-2 — five dollars (\$5.00).
  - (18) Reinstatement of Articles of Incorporation. — For filing reinstatements of Articles of Incorporation prepared pursuant to G.S. 105-232; such fees as provided for instruments in general. The fee shall be paid by the corporation affected.
- (Code, ss. 710, 3109, 3751; 1887, c. 283; 1891, c. 324; 1897, cc. 27, 68; 1899, c. 17, s. 2; c. 247, s. 3; cc. 261, 302, 578, 723; 1901, c. 294; 1903, c. 792; 1905, cc. 226, 292, 319; Rev., s. 2776; 1911, c. 55, s. 3; C.S., s. 3906; 1967, c. 639, s. 4; c. 823, s. 33; 1969, c. 80, s. 1; c. 912, s. 3; 1973, c. 507, s. 5; c. 1317; 1975, c. 428; 1977, 2nd Sess., c. 1132; 1981, c. 968, ss. 1, 2; 1983, c. 894, ss. 2, 3.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** —

The 1983 amendment, effective Oct. 1, 1983,

in the first sentence of the introductory paragraph of subsection (a), inserted "or G.S. 161-11.1"; in subdivision (a)(2), substituted "fifteen dollars (\$15.00)" for "ten dollars (\$10.00)."



### § 161-11.1. Fees for Children's Trust Fund.

Five dollars (\$5.00) of each fee collected by a register of deeds on or after October 1, 1983, for issuance of a marriage license pursuant to G.S. 161-10(a)(2) shall be forwarded, as soon as practical but no later than 60 days of collection by the register of deeds, to the county finance officer, who shall forward same to the State Treasurer for deposit in the Children's Trust Fund. (1983, c. 894, s. 4.)

**Cross References.** — As to establishment of Children's Trust Fund, see § 110-150.

**Editor's Note.** — Session Laws 1983, c. 894, s. 6, makes this section effective Oct. 1, 1983.

## ARTICLE 2.

### *The Duties.*

### § 161-22. Index of registered instruments.

(a) The register of deeds shall provide and keep in her or his office full and complete alphabetical indexes of the names of the parties to all liens, grants, deeds, mortgages, bonds, and other instruments required or authorized to be registered, and such indexes shall state in full the names of all parties, whether grantors, grantees, vendors, vendees, obligors, or obligees. Reference shall be made, opposite each name, to the book and page or other location where the instrument is registered. All instruments shall be indexed on either the temporary or permanent index within 24 hours of registration.

(b) In offices using the "Family" index system, the index entry shall show the name of each party under the appropriate family name and the initials of the party under the appropriate alphabetical arrangement of the index. In offices using indexing systems having subdivisions of the letters of the alphabet, a registered instrument shall be deemed properly registered only when it has been indexed under the correct subdivision of the appropriate letter of the alphabet.

(c) Instruments affecting real property shall be indexed in the appropriate real property indexes, and instruments affecting personal property shall be indexed in the appropriate personal property indexes. Instruments affecting both real and personal property shall be indexed in both the real and personal property indexes.

(d) Deeds of trust may be indexed in the names of the grantor and trustee only.

(e) Certificates filed for recording pursuant to G.S. 59-2, the Uniform Limited Partnership Act, shall be indexed only under the names of the partnership and each of the general partners. The register of deeds shall cause a statement to be affixed or printed on the index page of the book or books in which limited partnership agreements are filed that such documents are indexed only in the names of the partnership and of each of the general partners.

(f) The alphabetical indexes required by this section may be maintained in index books, on index cards, on film, or in computers or other automated data-processing machines. If the index is maintained in a computer or other automated data processing machine, the register of deeds shall, at least once each month, obtain from the computer or other automated data-processing machine a printed copy on paper or film, or a tape or disk, of all index entries made since the previous printed or filmed copy, or tape or disk, was obtained. These printed or filmed copies, tapes or disks, shall be retained as security copies and may not be altered or destroyed until a subsequent security copy is made containing the index entries from all previous security copies.



(g) The register of deeds may adopt rules establishing indexing procedures and the format of the indexes. Such rules shall be in conformity with the requirements of this section and of other applicable statutes and may address such subjects, by way of example and not limitation, as the indexing of business firms, the indexing of names containing numerals, and the indexing of government agencies. Such rules shall be posted in at least two prominent places in the register of deeds' office and shall also be placed near the index books or in user manuals in offices using automated indexing systems. From and after the effective date of such rules, a registered instrument shall be deemed properly registered only when it has been indexed according to the rules.

(h) No instrument shall be deemed registered until it has been indexed as provided in this section.

(i) A violation of this section shall constitute a misdemeanor. (1876-7, c. 93, s. 1; Code, s. 3664; 1899, c. 501; Rev., ss. 2665, 3600; C.S., s. 3561; 1929, c. 327, s. 2; 1967, cc. 443, 1262; 1973, c. 1136, ss. 1, 2; 1983, c. 127; c. 699, ss. 1, 3.)

**Effect of Amendments.** — The first 1983 amendment, effective March 31, 1983, made a deletion in the first paragraph of the section as it existed prior to the second 1983 amendment.

The second 1983 amendment, effective July 6, 1983, repealed the first 1983 amendment by c. 127 and rewrote this section.

## § 161-22.2. Parcel identifier number indexes.

- (e) (1) An approved parcel identifier number index shall become effective as the official real property index of the county as of the first day of July or the first day of January, as the board of commissioners directs, following approval by the Secretary of Administration.
- (2) In any county in which a parcel identifier index is the official index, the register of deeds shall post notices in the alphabetical index books and at other appropriate places in his office stating that the parcel identifier number index is the official index and the date when the change became effective. (1977, c. 589; 1979, c. 700, s. 2; 1983, c. 49.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Local Modification.** — Orange: 1983, c. 3.

**Effect of Amendments.** — The 1983 amendment, effective March 4, 1983, inserted "or the first day of January, as the board of commissioners directs" in subdivision (e)(1).



## Chapter 162.

### Sheriff.

#### Article 1.

##### The Office.

- Sec.  
 162-2. Disqualifications for the office.  
 162-5. Vacancy filled; duties performed by coroner or chief deputy.  
 162-5.1. Vacancy filled in certain counties; duties performed by coroner or chief deputy.

#### Article 2.

##### Sheriff's Bond.

- 162-8. Bond required.  
 162-9. County commissioners to take and approve bonds.  
 162-10. Duty of commissioners when bonds insufficient.  
 162-11. [Repealed.]

#### Article 3.

##### Duties of Sheriff.

- 162-14. Duty to execute process.  
 162-15. Imposition of penalty; procedure.  
 162-17. Duties of outgoing sheriff for unexecuted process.  
 162-18. Payment of money collected on execution.

#### Sec.

- 162-20, 162-21. [Repealed.]  
 162-22. Custody of jail.  
 162-24. Delegation of official duties.

#### Article 4.

##### County Prisoners.

- 162-34. United States prisoners.  
 162-37. [Repealed.]  
 162-38. Where jail unfit or insecure, courts may commit to jail of adjoining county.  
 162-39. Transfer of prisoners when necessary for safety and security; application of section to municipalities.  
 162-40. When jail destroyed, transfer of prisoners provided for.  
 162-40.1. Reimbursement for transfer of prisoners.  
 162-42 to 162-44. [Repealed.]  
 162-48. [Repealed.]  
 162-50. Penalties.  
 162-51 to 162-54. [Reserved.]  
 162-55. Injury to prisoner by jailer.  
 162-56. Place of confinement.  
 162-57. Record to be kept; items of record.

## ARTICLE 1.

### The Office.

#### § 162-2. Disqualifications for the office.

No person shall be eligible for the office of sheriff who is not of the age of 21 years, or has not resided in the county in which he is chosen for one year immediately preceding his election. No person shall engage in the practice of law or serve as a member of the General Assembly while serving as sheriff. (1777, c. 118, ss. 2, 4, P.R.; 1806, c. 699, s. 2, P.R.; 1829, c. 5, s. 6; 1830, c. 25, ss. 2, 3; R.C., c. 105, ss. 5, 6, 7; Code, ss. 2067, 2068, 2069; Rev., s. 2809; C.S., s. 3926; 1971, c. 1231, s. 1; 1983, c. 670, s. 1.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, rewrote this section.

#### § 162-3. Sheriff may resign.

**Local Modification.** — Richmond County: 1983, c. 649.



## § 162-5. Vacancy filled; duties performed by coroner or chief deputy.

If any vacancy occurs in the office of sheriff, the coroner of the county shall execute all process directed to the sheriff until the first meeting of the county commissioners next succeeding such vacancy, when the board shall elect a sheriff to supply the vacancy for the residue of the term, who shall possess the same qualifications, enter into the same bond, and be subject to removal, as the sheriff regularly elected. If the board should fail to fill such vacancy, the coroner shall continue to discharge the duties of sheriff until it shall be filled.

In those counties where the office of coroner has been abolished, the chief deputy sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall perform all the duties of the sheriff until the county commissioners appoint some person to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the interim of the vacancy, continue to perform their duties with full authority. (1829, c. 5, s. 8; R.S., c. 109, s. 11; R.C., c. 105, s. 11; Code, s. 2071; Rev., s. 2811; C.S., s. 3929; 1973, c. 74; 1983, c. 670, s. 2.)

**Local Modification.** — Richmond County: 1983, c. 649.

ment, effective July 1, 1983, substituted "bond" for "bonds" in the first sentence of the first paragraph.

**Effect of Amendments.** — The 1983 amend-

## § 162-5.1. Vacancy filled in certain counties; duties performed by coroner or chief deputy.

If any vacancy occurs in the office of sheriff, the coroner of the county shall execute all process directed to the sheriff until the board shall elect a sheriff to supply the vacancy for the residue of the term, who shall possess the same qualifications, enter into the same bond, and be subject to removal, as the sheriff regularly elected. If the sheriff were elected as a nominee of a political party, the board of commissioners shall consult the county executive committee of that political party before filling the vacancy, and shall elect the person recommended by the county executive committee of that party, if the party makes a recommendation within 30 days of the occurrence of the vacancy. If the board should fail to fill such vacancy, the coroner shall continue to discharge the duties of sheriff until it shall be filled.

In those counties where the office of coroner has been abolished, the chief deputy sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall perform all the duties of the sheriff until the county commissioners appoint some person to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the interim of the vacancy, continue to perform their duties with full authority.

This section shall apply only in the following Counties: Alamance, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Cherokee, Clay, Cleveland, Davidson, Davie, Graham, Guilford, Haywood, Henderson, Jackson, Madison, McDowell, Mecklenburg, Moore, New Hanover, Polk, Randolph, Rockingham, Rutherford, Stanly, Stokes, Transylvania, Wake, and Yancey. (1981, c. 763, ss. 10, 14; c. 830; 1983, c. 670, s. 2.)

**Effect of Amendments.** —

The 1983 amendment, effective July 1, 1983,

substituted "bond" for "bonds" in the first sentence of the first paragraph.



## ARTICLE 2.

*Sheriff's Bond.***§ 162-8. Bond required.**

The sheriff shall furnish a bond payable to the State of North Carolina for the due execution and return of process, the payment of fees and moneys collected, and the faithful execution of his office as sheriff, which shall be conditioned as follows:

The condition of the above obligation is such that, whereas the above bounden . . . . . is elected and appointed sheriff of . . . . . County; if therefore, he shall well and truly execute and due return make of all process and precepts to him directed, and pay and satisfy all fees and sums of money by him received or levied by virtue of any process into the proper office into which the same, by the tenor thereof, ought to be paid, or to the person to whom the same shall be due, his executors, administrators, attorneys, or agents; and in all other things well and truly and faithfully execute the said office of sheriff during his continuance therein, then above obligation to be void; otherwise to remain in full force and effect.

The amount of the bond shall be determined by the board of county commissioners, but shall not exceed twenty-five thousand dollars (\$25,000). (1777, c. 118, s. 1, P.R.; 1823, c. 1223, P.R.; R.C., c. 105, s. 13; 1879, c. 109; Code, s. 2073; 1895, c. 270, ss. 1, 2; 1899, c. 54, s. 52; c. 207, s. 2; 1903, c. 12; Rev., s. 298; C.S., s. 3930; 1943, c. 543; 1983, c. 670, s. 4.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, substituted the present first paragraph for the former first

through third paragraphs and added the last paragraph.

**§ 162-9. County commissioners to take and approve bonds.**

The board of county commissioners in every county shall take and approve the official bond of the sheriffs, which they shall cause to be registered and the original deposited with the clerk of superior court for safekeeping. The bond shall be taken on the first Monday of December next after the election. (1806, c. 699, s. 2, P.R.; 1830, c. 5, s. 5; R.C., c. 105, s. 6; 1868, c. 20, s. 32; 1876-7, c. 276, s. 5; Code, ss. 2066, 2068; Rev., s. 2812; C.S., s. 3931; 1983, c. 670, s. 5.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, substituted "bond" for "bonds" in the first and second sentences, substituted "original" for "originals" in the first sentence, and deleted "of sheriffs, but no board shall permit any former sheriff to give bonds

for, or reenter upon the duties of the office, until he has produced before the board the receipt in full of every such officer for taxes which he has or should have collected" at the end of the second sentence.

**§ 162-10. Duty of commissioners when bond insufficient.**

Whenever the board of county commissioners finds that the sheriff has been unable to provide the bond prescribed by the board, the board shall give written notice to the sheriff to appear before the board within 10 days and provide a sufficient bond. If the sheriff fails to appear or provide a sufficient bond, the sheriff shall forfeit his office, and the commissioners shall elect a suitable person in the county as sheriff for the unexpired term, pursuant to G.S. 162-5 or G.S. 162-5.1, as appropriate. (1879, c. 109, s. 2; Code, s. 2074; Rev., s. 2813; C.S., s. 3932; 1983, c. 670, s. 6.)



**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, rewrote this section.

**§ 162-11:** Repealed by Session Laws 1983, c. 670, s. 7, effective July 1, 1983.

### ARTICLE 3.

#### *Duties of Sheriff.*

#### **§ 162-14. Duty to execute process.**

Every sheriff, by himself or his lawful deputies, shall execute and make due return of all writs and other process to him legally issued and directed, within his county or upon any river, bay or creek adjoining thereto, or in any other place where he may lawfully execute the same. (1777, c. 218, s. 5, P.R.; 1821, c. 1110, P.R.; R.C., c. 105, s. 17; 1874, c. 33; Code, s. 2079; 1899, c. 25; Rev., s. 2817; C.S., s. 3936; 1973, c. 108, s. 98; 1983, c. 670, s. 8.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, deleted a former second sentence, relating to a penalty for cer-

tain acts of neglect, and a former second paragraph relating to a penalty for false returns.

#### **§ 162-15. Imposition of penalty; procedure.**

In any case in which a person aggrieved seeks the imposition of penalties against a sheriff for failure or neglect to perform any duty of office or for any default in office as provided in G.S. 162-12, he may proceed by motion in the cause, supported by an affidavit, in a pending action. Upon the filing of a motion in the cause the clerk shall deliver a copy of the motion and affidavit and an order to show cause to the sheriff. (1871-2, c. 74, s. 4; Code, s. 446; Rev., s. 2818; C.S., s. 3937; 1983, c. 670, s. 9.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, rewrote this section.

#### **§ 162-17. Duties of outgoing sheriff for unexecuted process.**

It shall be the duty of any sheriff who shall have received a precept, and shall go out of office before the return day thereof, without having executed the same, to deliver same to the succeeding sheriff with sufficient time allowed for it to be executed by him. (R.C., c. 105, s. 25; Code, s. 2088; Rev., s. 2820; C.S., s. 3939; 1983, c. 670, s. 10.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, rewrote this section.



## § 162-18. Payment of money collected on execution.

In all cases where a sheriff has collected money upon an execution placed in his hands, if there be no bona fide contest over the application thereof, he shall immediately pay the same to the plaintiff, or into the office of the clerk of the court from which the execution issued. (Code, s. 2080; Rev., s. 2821; C.S., s. 3940; 1983, c. 670, s. 11.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, deleted "and upon his failure to make such payment upon demand, he shall be liable to a penalty of one hundred dollars (\$100.00), to be collected as other penalties" at the end of the section.

§§ 162-20, 162-21: Repealed by Session Laws 1983, c. 670, ss. 12, 13, effective July 1, 1983.

## § 162-22. Custody of jail.

The sheriff shall have the care and custody of the jail in his county; and shall be, or appoint, the keeper thereof.

No law-enforcement officer or jailer who shall have the care and custody of any jail shall receive any portion of any jail fee or charge paid by or for any person confined in such jail, nor shall the compensation or remuneration of such officer be affected to any extent by the costs of goods or services furnished to any person confined in such jail. (R.C., c. 105, s. 22; Code, s. 2085; Rev., s. 2824; C.S., s. 3944; 1967, c. 581, s. 3; 1969, c. 1090; 1983, c. 670, s. 14.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, deleted a proviso at the end of the first paragraph relating to the appointment by the board of county commissioners of a person other than the sheriff to serve as jailer with the consent of the sheriff.

## § 162-24. Delegation of official duties.

The sheriff may not delegate to another person the final responsibility for discharging his official duties, but he may appoint a deputy or employ others to assist him in performing his official duties. (23 Hen. VI, c. 10; R.C., c. 105, s. 21; Code, s. 2084; Rev., s. 2828; C.S., s. 3946; 1983, c. 670, s. 15.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, rewrote this section, which formerly read: "No sheriff shall let to farm in any manner, his county, or any part of it, under pain of forfeiting five hundred dollars (\$500.00), one half to the use of the county and the other half to the person suing for the same."

## ARTICLE 4.

### *County Prisoners.*

## § 162-32. Bond of prisoner committed on capias in civil action.

### CASE NOTES

For discussion of historical background, policies, purposes, and implementation of the "Fair Sentencing Act," see *State v. Ahearn*, — N.C. —, 300 S.E.2d 689 (1983).



The "Fair Sentencing Act," as codified in Chapter 15A, Article 81A, resulted in revisions to other portions of the general statutes. See, e.g., Chapter 14, Articles 1, 2, 2A, 33; Chapter

15A, Articles 58, 81A, 82, 83, 85, 85A, 89, 91; Chapter 148, Article 2, and Chapter 162, Article 4. *State v. Ahearn*, — N.C. —, 300 S.E.2d 689 (1983).

## § 162-34. United States prisoners.

When a prisoner is delivered to the keeper of the county jail by the authority of the United States, such keeper shall receive and commit such prisoner if the jail has adequate and available housing space. The keeper of the county jail shall not be subject to any pains or penalties for refusal to receive and commit a federal prisoner. The United States shall reimburse the county for the incarceration of any federal prisoner at such rate as may be agreed upon between the county and the United States. (1790, c. 322, ss. 1, 2, P.R.; R.C., c. 87, s. 1; Code, s. 3456; Rev., s. 1342; C.S., s. 1349; 1973, c. 822, s. 3; 1983, c. 219.)

**Effect of Amendments.** — The 1983 amendment, effective April 22, 1983, rewrote this section.

§ 162-37: Repealed by Session Laws 1983, c. 670, s. 16, effective July 1, 1983.

## § 162-38. Where jail unfit or insecure, courts may commit to jail of adjoining county.

Whenever there is an unfit or insecure jail in any county, the judicial officers of such county may commit any persons brought before them, whether in a criminal or civil proceeding, to the jail of any adjoining county, for the same causes and under the like regulations that they might have ordered commitments to the usual jail; and the sheriffs and other officers of such county in which there is an unfit or insecure jail, and the sheriffs or keepers of the jails of the adjoining counties, shall obey any order of commitment so made. (1835, c. 2, s. 2; R.C., c. 87, s. 3; Code, s. 3458; Rev., s. 1350; C.S., s. 1354; 1973, c. 57, s. 2; c. 822, s. 3; 1983, c. 670, s. 17.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, deleted "there happens to be no jail, or when" following "Whenever," substituted "any persons brought before them" for "all persons brought before

them," substituted "an unfit or insecure jail" for "no jail, or an unfit one" preceding "and the sheriffs" and deleted a former second sentence, which read: "Any officer failing to obey such order shall be guilty of a misdemeanor."

## § 162-39. Transfer of prisoners when necessary for safety and security; application of section to municipalities.

Whenever necessary for the safety of a prisoner held in any county jail or to avoid a breach of the peace in any county or whenever prisoners are arrested in such numbers that county jail facilities are insufficient and inadequate for the housing of such prisoners, the resident judge of the superior court or any judge holding superior court in the district or any district court judge may order



the prisoner transferred to a fit and secure jail in some other county, or to a unit of the State prison system designated by the Secretary of Correction or his authorized representative, where the prisoner shall be held for such length of time as the judge may direct. The sheriff of the county from which the prisoner is removed shall be responsible for conveying the prisoner to the jail or prison unit where he is to be held, and for returning him to the common jail of the county from which he was transferred. The return shall be made at the expiration of the time designated in the court order directing the transfer unless the judge, by appropriate order, shall direct otherwise. The sheriff or keeper of the jail of the county designated in the court order, or the officer in charge of the prison unit designated by the Secretary of Correction, shall receive and release custody of the prisoner in accordance with the terms of the court order. The county from which a prisoner is transferred shall pay to the county receiving the prisoner in its jail, or to the State Department of Correction if he is received in a prison unit, the actual cost of maintaining the prisoner in that jail or prison unit for the time designated by the court. Counties are hereby authorized to enter into contractual agreements with other counties to provide jail facilities to which prisoners may be transferred as deemed necessary under this section.

Whenever prisoners are arrested in such numbers that county jail facilities are insufficient and inadequate for the safekeeping of such prisoners, the resident judge of the superior court or any superior or district court judge holding court in the district may order the prisoners transferred to a unit of the State Department of Correction designated by the Secretary of Correction or his authorized representative, where the prisoners may be held for such length of time as the judge may direct, such detention to be in cell separate from that used for imprisonment of persons already convicted of crimes. The sheriff of the county from which the prisoners are removed shall be responsible for conveying the prisoners to the prison unit or units where they are to be held, and for returning them to the common jail of the county from which they were transferred. However, if due to the number of prisoners to be conveyed the sheriff is unable to provide adequate transportation, he may request the assistance of the Department of Correction, and the Department of Correction is hereby authorized and directed to cooperate with the sheriff and provide whatever assistance is available, both in vehicles and manpower, to accomplish the conveying of the prisoners to and from the county to the designated prison unit or units. The officer in charge of the prison unit designated by the Secretary of Correction or his authorized representative shall receive and release the custody of the prisoners in accordance with the terms of the court order. The county from which the prisoners are transferred shall pay to the State Department of Correction the actual cost of transporting and maintaining the prisoners. However, if the county commissioners shall certify to the Governor that the county is unable to pay the bill submitted by the State Department of Correction to the county for the services rendered, either in whole or in part, the Governor may recommend to the Council of State that the State of North Carolina assume and pay, in whole or in part, the obligation of the county to the Department of Correction, and upon approval of the Council of State the amount so approved shall be paid from Contingency and Emergency Fund to the Department of Correction.

When, due to an emergency, it is not feasible to obtain from a judge of the superior or district court a prior order of transfer, the sheriff of the county and the Department of Correction may exercise the authority hereinafter conferred; provided, however, that the sheriff shall, as soon as possible after the emergency, obtain an order from the judge authorizing the prisoners to be held in the designated place of confinement for such period as the judge may direct. All provisions of this section shall be applicable to municipalities whenever prisoners are arrested in such numbers that the municipal jail facilities and the



county jail facilities are insufficient and inadequate for the safekeeping of the prisoners. The chief of police is hereby authorized to exercise the authority herein conferred upon the sheriff, and the cost of transporting and maintaining the prisoners shall be paid by the municipality unless action is taken by the Governor and Council of State as herein provided for counties which are unable to pay such costs. (1957, c. 1265; 1967, c. 996, ss. 13, 15; 1969, cc. 462, 1130; 1973, c. 822, s. 3; c. 1262, s. 10; 1983, c. 165, ss. 1-4.)

**Effect of Amendments.** — The 1983 amendment, effective April 12, 1983, inserted "or whenever prisoners are arrested in such numbers that county jail facilities are insufficient and inadequate for the housing of such prisoners" and "or any district court judge" in the first sentence of the first paragraph, added

the last sentence of the first paragraph, substituted "superior or district court judge holding court" for "judge holding superior court" in the first sentence of the second paragraph, and substituted "the superior or district court" for "superior court" in the first sentence of the third paragraph.

## § 162-40. When jail destroyed, transfer of prisoners provided for.

When the jail of any county is destroyed by fire or other accident, any judicial officer of such county may cause all prisoners then confined therein to be brought before him. Upon the production of the process under which any prisoner was confined, such judicial officer shall order his commitment to the jail of any adjacent county. The sheriff or other officer of the county deputized for that purpose shall obey the order; and the sheriff or keeper of the common jail of such adjacent county shall receive such prisoners consistent with those provisions of G.S. 162-38. (1835, c. 2, s. 1; R.C., c. 87, s. 2; Code, s. 3457; Rev., s. 1351; C.S., s. 1355; 1973, c. 57, s. 3; c. 822, s. 3; 1983, c. 670, s. 18.)

**Effect of Amendments.** — The 1983 amendment, effective July 1, 1983, divided the former first sentence of this section into the present first through third sentences thereof; in the present first sentence, substituted "any judicial officer" for "any judge or magistrate"; deleted "and" at the beginning of the present second sentence and inserted "such judicial officer" in

such sentence; deleted "and" at the beginning of the present third sentence and, at the end of that sentence, inserted "consistent with those provisions of G.S. 162-38"; deleted the former second sentence, which read: "Any officer failing to obey such order of commitment shall be guilty of a misdemeanor."

### § 162-40.1. Reimbursement for transfer of prisoners.

The county receiving prisoners pursuant to G.S. 162-38, 162-39 and 162-40 shall be reimbursed at the usual jail fee rate for each 24 hours of confinement or part thereof by the county from which the prisoner is transferred. (1983, c. 670, s. 19.)

**Editor's Note.** — Session Laws 1983, c. 670, s. 24, makes this section effective upon ratification. The act was ratified July 1, 1983.



**§§ 162-42 to 162-44:** Repealed by Session Laws 1983, c. 670, s. 20, effective July 1, 1983.

**§ 162-48:** Repealed by Session Laws 1983, c. 670, s. 20, effective July 1, 1983.

### **§ 162-50. Penalties.**

Upon a finding that the sheriff, personally or through his lawful deputies, has willfully failed or neglected to perform any duty imposed by this Chapter, or has made any false return, he shall be subject to damages of not more than five hundred dollars (\$500.00), and such damages recovered shall be paid to the person aggrieved. Nothing in this section bars an independent action for damages by the person aggrieved. (1983, c. 670, s. 21.)

**Editor's Note.** — Session Laws 1983, c. 670, s. 24, makes this section effective upon ratification. The act was ratified July 1, 1983.

**§§ 162-51 to 162-54:** Reserved for future codification purposes.

### **§ 162-55. Injury to prisoner by jailer.**

If the keeper of a jail shall do, or cause to be done, any wrong or injury to the prisoners committed to his custody, contrary to law, he shall not only pay treble damages to the person injured, but shall be guilty of a misdemeanor. (1795, c. 433, s. 6, P.R.; R.C., c. 87, s. 8; Code, s. 3463; Rev., s. 3661; C.S., s. 4407; 1983, c. 631, s. 1.)

**Editor's Note.** — This section was formerly 1983, c. 631, s. 1, as § 162-55, effective June 28, § 14-260. It was recodified by Session Laws 1983.

### **§ 162-56. Place of confinement.**

Persons committed to the custody of a sheriff shall be confined in the facilities designated by law for such confinement, and shall not be confined in any other place. Nothing herein shall be construed to prohibit or limit the authority of a sheriff to house prisoners committed to his custody in quarters, approved by the Department of Human Resources, other than the county jail. (1795, c. 433, s. 4; R.C., c. 87, s. 16; Code, s. 3471; Rev., s. 3660; C.S., s. 4408; 1983, c. 631, s. 2.)

**Editor's Note.** — This section was formerly § 162-56 by Session Laws 1983, c. 631, s. 2, § 14-261. It was rewritten and recodified as effective June 28, 1983.

### **§ 162-57. Record to be kept; items of record.**

The superintendent or other person having charge of prisoners shall keep a record showing, the name, age, date of sentence, length of sentence, crime for

which convicted, home address, next of kin, and the conduct of each prisoner received. (1927, c. 178, s. 2; 1983, c. 631, s. 3.)

**Editor's Note.** — This section was formerly § 14-264. It was recodified by Session Laws 1983, c. 631, s. 3, as § 162-57, effective June 28, 1983.



## Chapter 162A.

### Water and Sewer Systems.

#### Article 1.

#### Sec.

##### Water and Sewer Authorities.

Sec.

162A-6. Powers of authority generally.

162A-9.1. Adoption and enforcement of ordinances.

of members; organization; meetings; quorum; compensation and expenses of members.

162A-69. Powers generally; fiscal year.

162A-81. Adoption and enforcement of ordinances.

162A-82 to 162A-85. [Reserved.]

#### Article 5.

##### Metropolitan Sewerage Districts.

162A-65. Definitions; description of boundaries.

162A-67. District board; composition, appointment, terms, oaths and removal

#### Article 6.

##### County Water and Sewer Districts.

162A-89.1. Eminent domain power authorized.

## ARTICLE 1.

### Water and Sewer Authorities.

## § 162A-2. Definitions.

#### CASE NOTES

**Applied** in *Orange Water & Sewer Auth. v. Town of Carrboro*, 58 N.C. App. 676, 294 S.E.2d 757 (1982).

## § 162A-6. Powers of authority generally.

Each authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such authority is, subject to the provisions of G.S. 162A-7, hereby authorized and empowered:

(14b) To provide for the defense of civil and criminal actions and payment of civil judgments against employees and officers or former employees and officers and members or former members of the governing body as authorized by G.S. 160A-167, as amended.

(14c) To adopt ordinances to regulate and control the discharge of sewage into any sewerage system owned or operated by the authority. Prior to the adoption of any such ordinance or any amendment to any such ordinance, the authority shall first pass a declaration of intent to adopt such ordinance or amendment. The declaration of intent shall describe the ordinance which it is proposed that the authority adopt. The declaration of intent shall be submitted to each governing body for review and comment. The authority shall consider any comment or suggestions offered by any governing body with respect to the proposed ordinance or amendment. Thereafter, the authority shall be authorized to adopt such ordinance or amendment to it at any time after 60 days following the submission of the declaration of intent to each governing body.



(1955, c. 1195, s. 6; 1969, c. 850; 1971, c. 892, s. 1; 1979, c. 804; 1983, c. 525, s. 5; c. 820, s. 1.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendments, it is not set out.

**Effect of Amendments.** — The first 1983

amendment, effective June 15, 1983, added subdivision (14b).

The second 1983 amendment, effective July 19, 1983, added subdivision (14c).

#### CASE NOTES

**Applied in** *Orange Water & Sewer Auth. v. Town of Carrboro*, 58 N.C. App. 676, 294 S.E.2d 757 (1982).

### § 162A-9. Rates and charges; contracts for water or services; deposits; delinquent charges.

#### CASE NOTES

**Liability of City for Hydrant Fees.** — Even absent statutory or express contractual liability to pay another for fire protection, justice and equity require a city to pay fire hydrant fees to a water and sewer authority where the authority intended to maintain hydrants for the city's use, the city granted a 60-year franchise to the authority to install and maintain hydrants, free service was explicitly proscribed, the city knew

of the hydrant charges, and the city paid such charges until the rate was increased. The law implies a promise by the city to pay for such service. Otherwise, it would be unjustly enriched at the expense of the authority. *Orange Water & Sewer Auth. v. Town of Carrboro*, 58 N.C. App. 676, 294 S.E.2d 757, cert. denied, 307 N.C. 127, 297 S.E.2d 400 (1982).

### § 162A-9.1. Adoption and enforcement of ordinances.

(a) An authority shall have the same power as a city under G.S. 160A-175 to assess civil fines and penalties for violation of its ordinances; and, an authority may seek and recover injunctive relief to insure compliance with its ordinances as provided by this section.

(b) An ordinance may provide that its violation shall subject the offender to a civil penalty of not more than one thousand dollars (\$1,000) per violation, to be recovered by the authority in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance. Any person assessed a civil penalty by the authority shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment of the civil penalty. If the person assessed fails to pay the amount of the assessment to the authority within 30 days after receipt of such notice, or such longer period, not to exceed 180 days, as the authority may specify, the authority may institute a civil action in the General Court of Justice of the county in which the violation occurred, or, in the discretion of the authority, in the General Court of Justice of the county in which the person has his or its principal place of business, to recover the amount of the assessment. The validity of the authority's action in assessing the violator may be appealed directly to the General Court of Justice in the county in which the violation occurred, or may be raised at any time in the action to recover the assessment. No failure to contest directly the validity of the authority's action in levying the assessment shall preclude the person assessed from later raising the issue of validity in any action to collect the assessment.



(c) An ordinance may provide that it may be enforced, and it may be enforced, by any appropriate equitable remedy issuing from a court of competent jurisdiction. In such cases, the General Court of Justice shall have jurisdiction and authority to issue such orders as may be appropriate to enforce the ordinances of the authority, and it shall not be a defense to the application made by the authority therefor that there is an adequate remedy at law.

(d) Subject to the express terms of any ordinance, an ordinance adopted by the authority may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section.

(e) An ordinance may provide, when appropriate, that each day's continuing violation thereof shall constitute and be a separate and distinct offense. (1983, c. 820, s. 2.)

**Editor's Note.** — Session Laws 1983, c. 820, s. 3, makes this section effective upon ratification. The act was ratified July 19, 1983.

## ARTICLE 5.

### *Metropolitan Sewerage Districts.*

#### **§ 162A-65. Definitions; description of boundaries.**

(a) Definitions. — As used in this Article the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

- (1) The term "board of commissioners" shall mean the board of commissioners of the county in which a metropolitan sewerage district shall be created under the provisions of this Article.
- (2) The word "cost" as applied to a sewerage system shall mean the cost of acquiring, constructing, reconstructing, improving, extending, enlarging, repairing and equipping any such system, and shall include the cost of all labor and materials, machinery and equipment, lands, property, rights, easements and franchises, plans and specifications, surveys and estimates of cost and of revenues, and engineering and legal services, financing charges, interest prior to and during construction and, if deemed advisable by the district board, for one year after the estimated date of completion of construction, and all other expenses necessary or incident to determining the feasibility or practicability of any such undertaking, administrative expense and such other expenses, including reasonable provision for working capital and a reserve for interest, as may be necessary or incident to the financing herein authorized, and may also include any obligation or expense incurred by the district or by any political subdivision prior to the issuance of bonds under the provisions of this Article in connection with any such undertaking or any of the foregoing items of cost.
- (3) The word "district" shall mean a metropolitan sewerage district created under the provisions of this Article.
- (4) The term "district board" shall mean a sewerage district board established under the provisions of this Article as the governing body of a district or, if such sewerage district board shall be abolished, any board, body, or commission succeeding to the principal functions thereof or upon which the powers given by this Article to the sewerage district board shall be given by law.



- (5) The term "general obligation bonds" shall mean bonds of a district for the payment of which and the interest thereon all the taxable property within such district is subject to the levy of an ad valorem tax without limitation of rate or amount.
- (6) The term "governing body" shall mean the board, commission, council or other body, by whatever name it may be known, of a political subdivision in which the general legislative powers thereof are vested, including, but without limitation, as to any political subdivision other than the county, the board of commissioners for the county when the general legislative powers of such political subdivision are exercised by such board.
- (7) The word "person" shall mean any and all persons including individuals, firms, partnerships, associations, public or private institutions, municipalities, or political subdivisions, governmental agencies, or private or public corporations organized and existing under the laws of this State or any other state or county.
- (8) The term "political subdivision" shall mean any county, city, town, incorporated village, sanitary district, water district, sewer district, special purpose district or other political subdivision or public corporation of this State now or hereafter created or established.
- (9) The term "revenue bonds" shall mean bonds the principal of and the interest on which are payable solely from revenues of a sewerage system or systems.
- (9a) The word "revenues" shall mean all moneys received by a district from, in connection with or as a result of its ownership or operation of a sewerage system, including, without limitation and if deemed advisable by the district board, moneys received from the United States of America, or any agency thereof, pursuant to an agreement with the district board pertaining to the sewerage system.
- (10) The word "sewage" shall mean the water-carried wastes created in and carried or to be carried away from residences, hotels, schools, hospitals, industrial establishments, commercial establishments or any other private or public buildings, together with such surface or groundwater or household and industrial wastes as may be present.
- (11) The term "sewage disposal system" shall mean any plant, system, facility or property, either within or without the limits of the district, used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, or any integral part thereof, including but not limited to septic tank systems or other on-site collection or disposal facilities or systems, treatment plants, facilities for the generation and transmission of electric power and energy, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment, and all property, rights, easements and franchises relating thereto and deemed necessary or convenient by the district board for the operation thereof.
- (12) The term "sewerage system" shall embrace both sewers and sewage disposal systems and any part or parts thereof, either within or without the limits of the district, all property, rights, easements and franchises relating thereto, and any and all buildings and other structures necessary or useful in connection with the ownership, operation or maintenance thereof.
- (13) The word "sewers" shall mean any mains, pipes and laterals, including pumping stations, either within or without the limits of the district, for the reception of sewage and carrying such sewage to an outfall or some part of a sewage disposal system.



(1961, c. 795, s. 2; 1969, c. 993, s. 1; 1973, c. 822, s. 4; 1979, c. 619, s. 10; 1983, c. 333, s. 1.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amend-

ment, effective May 20, 1983, inserted "facilities for the generation and transmission of electric power and energy" in subdivision (a)(11).

## **§ 162A-67. District board; composition, appointment, terms, oaths and removal of members; organization; meetings; quorum; compensation and expenses of members.**

(d) District Board Procedures. — Each member of the district board, before entering upon his duties, shall take and subscribe an oath or affirmation to support the Constitution and laws of the United States and of this State and to discharge faithfully the duties of his office; and a record of each such oath shall be filed with the clerk or clerks of the board or boards of commissioners.

The district board shall elect one of its members as chairman and another as vice-chairman and shall appoint a secretary and a treasurer who may, but need not, be members of the district board. The officers [offices] of secretary and treasurer may be combined. The terms of office of the chairman, vice-chairman, secretary and treasurer shall be as provided in the bylaws of the district board.

The district board shall meet regularly at such places and dates as are determined by the board. Special meetings may be called by the chairman on his own initiative and shall be called by him upon request of two or more members of the board. All members shall be notified in writing at least 24 hours in advance of such meeting. A majority of the members of the district board shall constitute a quorum, and the affirmative vote of a majority of the members of the district board present at any meeting thereof shall be necessary for any action taken by the district board. No vacancy in the membership of the district board shall impair the right of a quorum to exercise all the rights and perform all the duties of the district board. Each member, including the chairman, shall be entitled to vote on any question. The members of the district board may receive compensation in an amount to be determined by the board, but not to exceed that compensation paid to members of Occupational Licensing Boards as provided in G.S. 93B-5(a) for each meeting of the board attended and for attendance at each regularly scheduled committee meeting of the board. The members of the district board may also be reimbursed the amount of actual expenses incurred by them in the performance of their duties. (1961, c. 795, s. 4; 1963, c. 471; 1973, c. 512, s. 2; c. 822, s. 4; c. 1262, s. 23; 1979, c. 471; 1983, c. 333, s. 2.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amend-

ment, effective May 20, 1983, substituted the present seventh sentence of the third paragraph of subsection (d) for the former seventh and eighth sentences thereof.

## **§ 162A-69. Powers generally; fiscal year.**

Each district shall be deemed to be a public body and body politic and corporate exercising public and essential governmental functions to provide for the preservation and promotion of the public health and welfare, and each district is hereby authorized and empowered:



- (1) To adopt bylaws for the regulation of its affairs and the conduct of its business not in conflict with this or other law;
- (2) To adopt an official seal and alter the same at pleasure;
- (3) To maintain an office at such place or places in the district as it may designate;
- (4) To sue and be sued in its own name, plead and be impleaded;
- (5) To acquire, lease as lessor or lessee, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain and operate any sewerage system or part thereof within or without the district; provided, however, that no such sewerage system or part thereof shall be located in any city, town or incorporated village outside the district except with the consent of the governing body thereof, and each such governing body is hereby authorized to grant such consent;
- (6) To issue general obligation bonds and revenue bonds of the district as hereinafter provided to pay the cost of a sewerage system or systems;
- (7) To issue general obligation refunding bonds and revenue refunding bonds of the district as hereinafter provided;
- (8) To fix and revise from time to time and to collect rents, rates, fees and other charges for the use of or for the services and facilities furnished by any sewerage system;
- (9) To cause taxes to be levied and collected upon all taxable property within the district sufficient to meet the obligations of the district, to pay the cost of maintaining, repairing and operating any sewerage system or systems, and to pay all obligations incurred by the district in the performance of its lawful undertakings and functions;
- (10) To acquire in the name of the district, either within or without the corporate limits of the district, by gift, purchase or the exercise of the right of eminent domain, which right shall be exercised in accordance with the provisions of Chapter 40A of the General Statutes of North Carolina, any improved or unimproved lands or rights in land, and to acquire such personal property, as it may deem necessary in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, repair, equipment, maintenance or operation of any sewerage system, and to hold and dispose of all real and personal property under its control;
- (11) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article, including a trust agreement or trust agreements securing any revenue bonds issued hereunder;
- (12) To employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants, attorneys, employees and agents as may, in the judgment of the district board be deemed necessary, and to fix their compensation; provided, however, that the provisions of G.S. 159-20 shall be complied with to the extent that the same shall be applicable;
- (13) To receive and accept from the United States of America or the State of North Carolina or any agency or instrumentality thereof loans, grants, advances or contributions for or in aid of the planning, acquisition, construction, reconstruction, improvement, extension, enlargement, repair, equipment, maintenance or operation of any sewerage system or systems, to agree to such reasonable conditions or requirements as may be imposed, and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants, advances or contributions may be made; and
- (13a) To adopt ordinances to regulate and control the discharge of sewage into any sewerage system owned or operated by the district. Prior to



the adoption of any ordinance or any amendment to any ordinance the district shall first pass a declaration of intent to adopt such ordinance or amendment. The declaration of intent shall describe the ordinance or amendment which it is proposed that the district adopt. The declaration of intent shall be submitted to each governing body for review and comment. The district shall take into consideration any comment and suggestions with respect to the proposed ordinance or amendment offered by any governing body and may modify such proposed ordinance or amendment to reflect comment and suggestions offered by any governing body. Thereafter, the district shall be authorized to adopt such ordinance or any amendment to it at any time after 60 days following the submission of the declaration of intent to each governing body.

- (14) To do all acts and things necessary or convenient to carry out the powers granted by this Article.

Each district shall keep its accounts on the basis of a fiscal year commencing on the first day of July and ending on the thirtieth day of June of the following year. (1961, c. 795, s. 6; 1973, c. 822, s. 4; 1981, c. 919, s. 32; 1983, c. 333, s. 3.)

**Effect of Amendments. —**

The 1983 amendment, effective May 20, 1983, added subdivision (13a).

## **§ 162A-81. Adoption and enforcement of ordinances.**

(a) A district shall have the same power as a city under G.S. 160A-175 to assess civil fines and penalties for violation of its ordinances, and may secure injunctions to further insure compliance with its ordinances as provided by this section.

(b) An ordinance may provide that its violation shall subject the offender to a civil penalty of not more than one thousand dollars (\$1,000) to be recovered by the district in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance. Any person assessed a civil penalty by the district shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the district within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the district may specify, the district may institute a civil action in the General Court of Justice of the county in which the violation occurred or, in the discretion of the district, in the General Court of Justice of the county in which the person assessed has his or its principal place of business, to recover the amount of the assessment. The validity of the district's action may be appealed directly to General Court of Justice in the county in which the violation occurred, or may be raised at any time in the action to recover the assessment. Neither failure to contest the district's action directly nor failure to raise the issue of validity in the action to recover an assessment precludes the other.

(c) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate and it shall not be a defense to the application of the district for equitable relief that there is an adequate remedy at law.

(d) Subject to the express terms of an ordinance, a district ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.



(e) An ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense. (1983, c. 333, s. 4.)

**Editor's Note.** — Session Laws 1983, c. 333, s. 5, makes this section effective upon ratification. The act was ratified May 20, 1983.

**§§ 162A-82 to 162A-85:** Reserved for future codification purposes.

## ARTICLE 6.

### *County Water and Sewer Districts.*

#### **§ 162A-89.1. Eminent domain power authorized.**

Notwithstanding the provisions of G.S. 40A-1, a county water and sewer district shall have the power of eminent domain, to be exercised in accordance with Article 9 of Chapter 136 of the General Statutes, over the acquisition of any improved or unimproved lands or rights in land, within or without the district. (1977, c. 466, s. 1; 1983, c. 735, s. 1.)

**Editor's Note.** — Session Laws 1983, c. 735, s. 2, provides: "This act is effective upon ratification. However, a county water and sewer district may not commence an action pursuant to this act after June 30, 1985." The act was ratified July 13, 1983.

**Effect of Amendments.** — The 1983 amendment, effective July 13, 1983, inserted "Notwithstanding the provisions of G.S. 40A-1," "of the General Statutes," and "within or without the district."



## Chapter 163.

### Elections and Election Laws.

#### SUBCHAPTER I. TIME OF PRIMARIES AND ELECTIONS.

##### Article 2.

##### Time of Elections to Fill Vacancies.

Sec.

163-8. Filling vacancies in State executive offices.

#### SUBCHAPTER II. ELECTION OFFICERS.

##### Article 3.

##### State Board of Elections.

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**SUBCHAPTER I. TIME OF PRIMARIES AND ELECTIONS.**

**ARTICLE 2.**

*Time of Elections to Fill Vacancies.*

**§ 163-8. Filling vacancies in State executive offices.**

If the office of Governor or Lieutenant Governor shall become vacant, the provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers shall be vacated by death, resignation, or otherwise than by expiration of term, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified: Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance. Each such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the



unexpired four-year term: Provided, that when a vacancy occurs in any of the offices named in this section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an acting officer to perform the duties of that office until a person is appointed or elected pursuant to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and is qualified. (1901, c. 89, ss. 4, 73; Rev., s. 4299; C.S., s. 5920; 1967, c. 775, s. 1; 1981, c. 504, s. 14; 1983, c. 324, s. 1.)

**Effect of Amendments.** — The 1983 amendment, effective Sept. 1, 1983, substituted "Article III, Section 7" for "§ 13, Article III" in the second paragraph.

## SUBCHAPTER II. ELECTION OFFICERS.

### ARTICLE 3.

#### *State Board of Elections.*

#### **§ 163-22.1. Power of State Board to order new elections.**

If the State Board of Elections, acting upon the agreement of at least four of its members, and after holding public hearings on election contests, alleged election irregularities or fraud, or violations of elections laws, determines that a new primary, general or special election should be held, the Board may order that a new primary, general or special election be held, either statewide, or in any counties, electoral districts, special districts, or municipalities over whose elections it has jurisdiction. The State Board shall be authorized to order a new election without conducting a public hearing provided a public hearing on the allegations was held by the county or municipal board of elections and the State Board is satisfied that such hearing gave sufficient opportunity for presentation of evidence and provided further that the State Board adopts the findings of the county or municipal board of elections.

Any new primary, general or special election so ordered shall be conducted under applicable constitutional and statutory authority and shall be supervised by the State Board of Elections and conducted by the appropriate elections officials.

The State Board of Elections has authority to adopt rules and regulations and to issue orders to carry out its authority under this section. (1973, c. 793, s. 5; 1983, c. 210.)

**Effect of Amendments.** — The 1983 amendment, effective Oct. 1, 1983, added the last sentence of the first paragraph.

#### **§ 163-22.2. Power of State Board to promulgate temporary rules and regulations.**

In the event any portion of Chapter 163 of the General Statutes is held unconstitutional or invalid by a State or federal court and such ruling adversely affects the conduct and holding of any pending primary or election, the State Board of Elections shall have authority to make reasonable interim rules and regulations with respect to the pending primary or election as it deems advisable so long as they do not conflict with any provisions of Chapter



163 of the General Statutes and such rules and regulations shall become null and void upon the convening of the next session of the General Assembly. The State Board of Elections shall also be authorized, upon recommendation of the Attorney General, to enter into agreement with the courts in lieu of protracted litigation until such time as the General Assembly convenes. (1981, c. 741; 1982, 2nd Ex. Sess., c. 3, s. 19.1.)

**Editor's Note.** — The amendment to this section made by Session Laws 1982 (2nd Ex. Sess.), c. 3, s. 19.1, expired on March 1, 1983, by virtue of Session Laws 1982 (2nd Ex. Sess.), c. 3, s. 18 as amended by Session Laws 1981 (Reg. Sess., 1982), c. 1265, s. 2. Accordingly, the section is reprinted above as it existed prior to the 1982, 2nd Ex. Sess. amendment.

**§ 163-25. Authority of State Board to assist in litigation.**

The State Board of Elections shall possess authority to assist any county or municipal board of elections in any matter in which litigation is contemplated or has been initiated, provided, the county or municipal board of elections in such county petitions, by majority resolution, for such assistance from the State Board of Elections and, provided further, that the State Board of Elections determines, in its sole discretion by majority vote, to assist in any such matter. It is further stipulated that the State Board of Elections shall not be authorized under this provision to enter into any litigation in assistance to counties, except in those instances where the uniform administration of Chapter 163 of the General Statutes of North Carolina has been, or would be threatened.

The Attorney General shall provide the State Board of Elections with legal assistance in execution of its authority under this section or, in his discretion, recommend that private counsel be employed.

If the Attorney General recommends employment of private counsel, the State Board may employ counsel with the approval of the Governor. (1969, c. 408, s. 1; 1973, c. 793, s. 6; 1983, c. 324, s. 2.)

**Effect of Amendments.** — The 1983 amendment, effective Sept. 1, 1983, added the last paragraph.

ARTICLE 4.

*County Boards of Elections.*

**§ 163-30. County boards of elections; appointments; terms of office; qualifications; vacancies; oath of office; instructional meetings.**

In every county of the State there shall be a county board of elections, to consist of three persons of good moral character who are registered voters in the county in which they are to act. Members of county boards of elections shall be appointed by the State Board of Elections on the last Tuesday in June 1985, and every two years thereafter, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. Not more than two members of the county board of elections shall belong to the same political party.

No person shall be eligible to serve as a member of a county board of elections who holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.



No person who holds any office in a state, congressional district, county or precinct political party or organization, or who is a campaign manager or treasurer of any candidate or political party in a primary or election, shall be eligible to serve as a member of a county board of elections, provided however that the position of delegate to a political party convention shall not be considered an office for the purpose of this section.

No person shall be eligible to serve as a member of a county board of elections who is a candidate for nomination or election.

No person shall be eligible to serve as a member of a county board of elections who is the wife, husband, son, daughter, mother, father, sister, or brother of any candidate for nomination or election.

The State chairman of each political party shall have the right to recommend to the State Board of Elections three registered voters in each county for appointment to the board of elections for that county. If such recommendations are received by the Board 15 or more days before the last Tuesday in June 1985, and each two years thereafter, it shall be the duty of the State Board of Elections to appoint the county boards from the names thus recommended.

Whenever a vacancy occurs in the membership of a county board of elections for any cause the State chairman of the political party of the vacating member shall have the right to recommend two registered voters of the affected county for such office, and it shall be the duty of the State Board of Elections to fill the vacancy from the names thus recommended.

At the meeting of the county board of elections required by G.S. 163-31 to be held on Tuesday following the third Monday in June in the year of their appointment the members shall take the following oath of office:

"I, . . . . ., do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States; and that I will well and truly execute the duties of the office of member of the . . . . . County Board of Elections to the best of my knowledge and ability, according to law; so help me God."

Each member of the county board of elections shall attend each instructional meeting held pursuant to G.S. 163-46, unless excused for good cause by the chairman of the board, and shall be paid the sum of twenty-five dollars (\$25.00) per day for attending each of those meetings. (1901, c. 89, ss. 6, 11; Rev., ss. 4303, 4304, 4305; 1913, c. 138; C.S., ss. 5924, 5925, 5926; 1921, c. 181, s. 1; 1923, c. 111, s. 1; c. 196; 1933, c. 165, s. 2; 1941, c. 305, s. 1; 1945, c. 758, ss. 1, 2; 1949, c. 672, s. 1; 1953, c. 410, ss. 1, 2; c. 1191, s. 2; 1955, c. 871, s. 1; 1957, c. 182, s. 1; 1959, c. 1203, s. 1; 1967, c. 775, s. 1; 1969, c. 208, s. 1; 1973, c. 793, s. 7; c. 1094; c. 1344, s. 4; 1975, c. 19, s. 66; c. 159, s. 1; 1981, c. 954, s. 1; 1983, c. 617, ss. 1, 2.)

#### **Effect of Amendments. —**

The 1983 amendment, effective Jan. 1, 1984, substituted "last Tuesday in June 1985" for

"Tuesday following the first Monday in June, 1975" in the second sentences of the first and sixth paragraphs.

## **§ 163-31. Meetings of county boards of elections; quorum; minutes.**

In each county of the State the members of the county board of elections shall meet at the courthouse or board office at noon on the Tuesday following the third Monday in July in the year of their appointment by the State Board of Elections and, after taking the oath of office provided in G.S. 163-30, they shall



organize by electing one member chairman and another member secretary of the county board of elections. On the Tuesday following the third Monday in August of the year in which they are appointed the county board of elections shall meet and appoint precinct registrars and judges of elections. The board may hold other meetings at such times as the chairman of the board, or any two members thereof, may direct, for the performance of duties prescribed by law. A majority of the members shall constitute a quorum for the transaction of board business. The chairman shall notify, or cause to be notified, all members regarding every meeting to be held by the board.

The county board of elections shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the board office and it shall be the responsibility of the secretary, elected by the board, to keep the required minute book current and accurate. The secretary of the board may designate the supervisor of elections to record and maintain the minutes under his supervision. (1901, c. 89, s. 11; Rev., ss. 4304, 4306; C.S., ss. 5925, 5927; 1921, c. 181, s. 2; 1923, c. 111, s. 1; 1927, c. 260, s. 1; 1933, c. 165, s. 2; 1941, c. 305, s. 1; 1945, c. 758, s. 2; 1953, c. 410, s. 1; c. 1191, s. 2; 1957, c. 182, s. 1; 1959, c. 1203, s. 1; 1966, Ex. Sess., c. 5, s. 2; 1967, c. 775, s. 1; 1969, c. 208, s. 2; 1975, c. 159, s. 2; 1977, c. 626; 1983, c. 617, s. 3.)

**Effect of Amendments.** — The 1983 amendment, effective Jan. 1, 1984, substituted "Tuesday following the third Monday in July" for "Tuesday following the third Monday in

June" in the first sentence of the first paragraph and substituted "third Monday in August" for "first Monday in August" in the second sentence of the first paragraph.

### § 163-33. Powers and duties of county boards of elections.

The county boards of elections within their respective jurisdictions shall exercise all powers granted to such boards in this Chapter, and they shall perform all the duties imposed upon them by law, which shall include the following:

- (10) To appoint and remove the board's clerk, assistant clerks, and other employees; and to appoint and remove precinct transfer assistants as provided in G.S. 163-72.3.

(1901, c. 89, s. 11; Rev., s. 4306; C.S., s. 5927; 1921, c. 181, s. 2; 1927, c. 260, s. 1; 1933, c. 165, s. 2; 1966, Ex. Sess., c. 5, s. 2; 1967, c. 775, s. 1; 1973, c. 793, ss. 9-11; 1983, c. 392, s. 1.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amendment, effective Sept. 1, 1983, substituted a

semi-colon for a period and added "and to appoint and remove precinct transfer assistants as provided in G.S. 163-72.3" at the end of subdivision (10).

### § 163-35. Supervisor of elections to county board of elections; appointment; compensation; duties; dismissal.

(b) **Appointment, Duties; Termination.** — Upon receipt of a nomination from the county board of elections stating that the nominee for supervisor of elections is submitted for appointment upon majority selection by the county board of elections the Executive Secretary-Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elec-



tions shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the supervisor by the county board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the supervisor shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Secretary-Director of the State Board of Elections the termination of the employment of the county board's supervisor of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Secretary-Director shall forward a copy of same by certified mail, return receipt requested, to the county supervisor of elections involved. The county supervisor of elections may reply to said petition within 15 days of receipt thereof. Within 20 days of receipt of the county supervisor of elections' reply or the expiration of the time period allowed for the filing of said reply, the State Executive Secretary-Director shall render a decision as to the termination or retention of the county supervisor of elections. The decision of the Executive Secretary-Director of the State Board of Elections shall be final unless such decision shall, within 20 days from the official date on which it was made, be deferred by the State Board of Elections, in which event a public hearing shall be conducted by said State Board or any single member designated by the remaining four members, in the county seat of the county involved. Following the conduct of such public hearing and a decision by the State Board of Elections, the chairman of said Board shall notify the Executive Secretary-Director of the State Board of Elections, in writing, of the decision resulting from the public hearing. If the decision, rendered by the State Board of Elections, results in concurrence with the decision entered by the Executive Secretary-Director, the decision becomes final. If the decision rendered by the Board is contrary to that entered by the Executive Secretary-Director, then the Executive Secretary-Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of Elections. The employment of any supervisor of elections presently employed or hereafter employed shall not be terminated except in compliance with the procedures herein prescribed. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23.

(1953, c. 843; 1955, c. 800; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1971, c. 1166, s. 2; 1973, c. 859, s. 1; 1975, c. 211, ss. 1, 2; c. 713; 1977, c. 265, s. 21; c. 626, s. 1; c. 1129, s. 1; 1981, cc. 84, 221; 1983, c. 697.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** —

The 1983 amendment, effective Oct. 1, 1983,

rewrote the second paragraph of subsection (b), which read: "Termination of employment of a supervisor of elections shall be upon a majority vote by the county board of elections following notice of 15 days to the supervisor."

## ARTICLE 5.

### *Precinct Election Officials.*

#### **§ 163-41. Precinct registrars and judges of election; special registration commissioners; appointment; terms of office; qualifications; vacancies; oaths of office.**

(a) Appointment of Registrar and Judges. — At the meeting required by G.S.



163-31 to be held on the Tuesday following the third Monday in August of the year in which they are appointed, the county board of elections shall appoint one person to act as registrar and two other persons to act as judges of election for each precinct in the county. Their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. It shall be their duty to conduct the primaries and elections within their respective precincts. Persons appointed to these offices must be registered voters and residents of the precinct for which appointed, of good repute, and able to read and write. Not more than one judge in each precinct shall belong to the same political party as the registrar, provided, however, that in a primary election in which only one political party participates, only the judge and assistants, appointed pursuant to G.S. 163-42, of the political party participating in said primary shall serve, along with the registrar, for that particular primary. For purposes of this section, the second primary provided for in G.S. 163-111 shall be considered part of the first primary and not a separate primary election.

The term "precinct official" shall mean registrars and judges appointed pursuant to this section, and all assistants appointed pursuant to G.S. 163-42, unless the context of a statute clearly indicates a more restrictive meaning.

No person shall be eligible to serve as a precinct official, as that term is defined above, who holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.

No person shall be eligible to serve as a precinct official who is a candidate for nomination or election.

No person shall be eligible to serve as a precinct official who holds any office in a state, congressional district, county, or precinct political party or political organization, or who is a manager or treasurer for any candidate or political party, provided however that the position of delegate to a political party convention shall not be considered an office for the purpose of this subsection.

The chairman of each political party in the county where possible shall recommend three registered voters in each precinct who are otherwise qualified, are residents of the precinct, have good moral character, and are able to read and write, for appointment as registrar in the precinct, and he shall also recommend where possible the same number of similarly qualified voters for appointment as judges of election in that precinct. If such recommendations are received by the county board of elections no later than the fifth day preceding the date on which appointments are to be made, it must make precinct appointments from the names of those recommended.

If, at any time other than on the day of a primary or election, a registrar or judge of election shall be removed from office, or shall die or resign, or if for any other cause there be a vacancy in a precinct election office, the chairman of the county board of elections shall appoint another in his place, promptly notifying him of his appointment. In filling such a vacancy, the chairman shall appoint a person who belongs to the same political party as that to which the vacating member belonged when appointed.

If any person appointed registrar shall fail to be present at the voting place at the hour of opening the polls on primary or election day, or if a vacancy in that office shall occur on primary or election day for any reason whatever, the precinct judges of election shall appoint another to act as registrar until such time as the chairman of the county board of elections shall appoint to fill the vacancy. If a judge of election shall fail to be present at the voting place at the hour of opening the polls on primary or election day, or if a vacancy in that office shall occur on primary or election day for any reason whatever, the registrar shall appoint another to act as judge until such time as the chairman of the county board of elections shall appoint to fill the vacancy. Persons



appointed to fill vacancies shall, whenever possible, be chosen from the same political party as the person whose vacancy is being filled, and all such appointees shall be sworn before acting.

Before entering upon his duties each registrar shall take and subscribe the following oath of office to be administered by an officer authorized to administer oaths and file it with the county board of elections:

"I, . . . . ., do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State not inconsistent with the Constitution of the United States; that I will administer the duties of my office as registrar of . . . . . precinct, . . . . . County, without fear or favor; that I will not in any manner request or seek to persuade or induce any voter to vote for or against any particular candidate or proposition; and that I will not keep or make any memorandum of anything occurring within a voting booth, unless I am called upon to testify in a judicial proceeding for a violation of the election laws of this State; so help me, God."

Before the opening of the polls on the morning of the primary or election, the registrar shall administer the oath set out in the preceding paragraph to each judge of election and assistant, substituting for the word "registrar" the words "judge of elections in" or "assistant in," whichever is appropriate.

(1901, c. 89, ss. 8, 9, 16; Rev., ss. 4307, 4308, 4309; C.S., ss. 5928, 5929, 5930; 1923, c. 111, s. 2; 1929, c. 164, s. 18; 1933, c. 165, s. 3; 1947, c. 505, s. 2; 1953, c. 843; c. 1191, s. 3; 1955, c. 800; 1957, c. 784, s. 1; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 435; c. 1223, s. 2; 1975, c. 159, ss. 3, 4; c. 711; c. 807, s. 1; 1979, c. 766, s. 1; c. 782; 1981, c. 628, ss. 1, 2; c. 954, ss. 2, 4; 1981 (Reg. Sess., 1982), c. 1265, s. 7; 1983, c. 617, s. 5.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** —

The 1983 amendment, effective Jan. 1, 1984,

substituted "third Monday in August" for "first Monday in August" in the first sentence of subsection (a).

## § 163-42. Assistants at polls; appointment; term of office; qualifications; oath of office.

Each county and municipal board of elections is authorized, in its discretion, to appoint two or more assistants for each precinct to aid the registrar and judges. Not more than two assistants shall be appointed in precincts having 500 or less registered voters. Assistants shall be qualified voters of the precinct for which appointed. When the board of elections determines that assistants are needed in a precinct an equal number shall be appointed from different political parties, unless the requirement as to party affiliation cannot be met because of an insufficient number of voters of different political parties within a precinct.

The chairman of each political party in the county shall have the right to recommend from three to 10 registered voters in each precinct for appointment as precinct assistants in that precinct. If the recommendations are received by it no later than the seventh day prior to the date the appointments are to be made pursuant to G.S. 163-31, the board shall make appointments of the precinct assistants for each precinct from the names thus recommended.

Before entering upon the duties of the office, each assistant shall take the oath prescribed in G.S. 163-41(a) to be administered by the registrar of the precinct for which the assistant is appointed. (1929, c. 164, s. 35; 1933, c. 165, s. 24; 1953, c. 1191, s. 3; 1967, c. 775, s. 1; 1973, c. 793, s. 95; c. 1359, ss. 1-3; 1975, c. 19, s. 67; 1977, c. 95, ss. 1, 2; 1981, c. 954, s. 3; 1983, c. 617, s. 4.)



**Effect of Amendments. —**

The 1983 amendment, effective Jan. 1, 1984, substituted "no later than the seventh day prior to the date the appointments are to be made

pursuant to G.S. 163-31" for "before the seventh Saturday before the primary is to be held" in the second sentence of the second paragraph.

## SUBCHAPTER III. QUALIFYING TO VOTE.

### ARTICLE 6.

#### *Qualifications of Voters.*

#### **§ 163-59. Right to participate or vote in party primary.**

No person shall be entitled to vote or otherwise participate in the primary election of any political party unless he

- (1) Is a registered voter, and
- (2) Has declared and has had recorded on the registration book or record the fact that he affiliates with the political party in whose primary he proposes to vote or participate, and
- (3) Is in good faith a member of that party.

Any person who will become qualified by age or residence to register and vote in the general election or regular municipal election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general or regular municipal election prior to the primary and then to vote in the primary after being registered. Such person may register not earlier than 60 days nor later than the twenty-first day (excluding Saturdays and Sundays) prior to the primary. (1915, c. 101, s. 5; 1917, c. 218; C.S., s. 6027; 1959, c. 1203, s. 6; 1967, c. 775, s. 1; 1971, c. 1166, s. 4; 1973, c. 793, s. 20; 1981, c. 33, s. 1; 1983, c. 324, s. 3.)

**Effect of Amendments. —**

The 1983 amendment, effective Sept. 1, 1983,

inserted "(excluding Saturdays and Sundays)" in the last sentence.

### ARTICLE 7.

#### *Registration of Voters.*

#### **§ 163-66. Custody of registration records and pollbooks; access; obtaining copies.**

In all counties the registration records, books, registration certificates, indexes, computer lists, discs, labels and tapes and other records of registration and voting shall be and remain in the possession of the county board of elections. The county board of elections shall keep all such records in a safe and secure place where they may not be tampered with, stolen or destroyed. If possible, the board shall keep them in a fireproof vault or file. The board may exercise supervision and control of these records through its properly designated officers and employees. It shall be the duty of the county board of elections, on application of any candidate, or the county chairman of any political party, or any other person, to furnish a list of the persons registered to vote in the county or in any precinct or precincts therein. No registrar shall furnish lists of registered voters or permit the registration records of his precinct to be copied. The county board of elections shall furnish such lists and upon request, it may furnish selective lists according to party affiliation, sex, race, date of registration, or any other reasonable category. In all instances, however, the county board of elections shall require persons to whom any list is furnished



to make full reimbursement for the expense incurred in preparing it. Notwithstanding the above, however, the chairman of each political party in the county, as defined in G.S. 163-96, shall be entitled biennially, upon written request, to one free list of all registered voters in his county showing the name, address, sex, political affiliation and precinct of each registered voter, provided, that in counties having voter records maintained on electronic data processing equipment, such lists shall not be furnished biennially but instead on the following schedule: once in each odd-numbered year, once during the first six calendar months of each even-numbered year, and once during the last six months of each even-numbered year. In addition to the typed, mimeographed, xeroxed or computer print-out lists required hereinabove, each county that provides voters' lists from computers shall, upon written request from the State chairman of each political party, provide once in each odd-numbered year, once during the first six calendar months of each even-numbered year, and once during the last six months of each even-numbered year a computer disc or tape containing the name, address, sex, race, age, political affiliation and precinct of each registered voter and it shall be the responsibility of each State chairman receiving such discs or tapes to provide them to candidates for election who are candidates of their respective political parties and who request the discs or tapes in writing. The free list to be furnished to the county chairman of each political party shall group the registered voters by precinct and shall be furnished as soon as practicable but no later than 30 days after said request. The discs or tapes to be furnished to the State chairman shall be furnished as soon as practicable but no later than 30 days after the request, and the State chairman is required to return the tapes or discs to the county board of elections within 60 days after receiving them. (1901, c. 89, s. 83; Rev., s. 4382; C.S., s. 6016; 1931, c. 80; 1939, c. 263, s. 3½; 1949, c. 916, ss. 6, 7; 1953, c. 843; 1955, c. 800; 1959, c. 883; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 793, s. 22; 1975, c. 12; 1979, 2nd Sess., c. 1242; 1981, c. 656; 1983, c. 218, ss. 1, 2.)

#### **Effect of Amendments. —**

The 1983 amendment, effective April 22, 1983, substituted "once in each odd-numbered year, once during the first six calendar months of each even-numbered year, and once during

the last six months of each even-numbered year" for "at least 120 days prior to each general election" in the tenth sentence and added the last sentence.

### **§ 163-67. Full-time registration; application to register.**

(a) The county boards of elections shall establish, prior to January 1, 1971, a full-time system of registration, as prescribed by the State Board of Elections, under which the registration books, process, and records shall be open continuously for the acceptance of registration applications and for the registration of voters at all reasonable hours and time consistent with the daily function of all other county offices. In such counties no registration shall entitle a registrant to vote in any primary, general or special election unless the registrant shall have made application not later than the twenty-first day, excluding Saturdays and Sundays, immediately preceding such primary, general or special election, provided that nothing shall prohibit registrants from registering to vote in future elections during such period.

When full-time registration has been established in a county, the official record of registration shall be made and kept in the form of an application to register which, as prescribed by the State Board of Elections, shall contain all information necessary to show the applicant's qualifications to register. In such a county, no person shall be registered to vote without first making a written, sworn, and signed application to register upon the form prescribed by the State Board of Elections. If the applicant cannot write because of physical disability,



his name shall be written on the application for him by the election official to whom he makes application, but the specific reason for the applicant's failure to sign shall be clearly stated upon the face of the application.

Registrars, judges of election, and special registration commissioners appointed under the provisions of G.S. 163-41 may take registration applications from and administer registration oaths to qualified applicants without regard to the precinct residence of the registrar, judge of election, special registration commissioner, or applicant.

Applications to register which have been completed by persons who have taken the required oath shall be forwarded promptly to the county board of elections. An application to register shall constitute a valid registration unless the county board of elections shall notify the applicant of its rejection within 30 days after its completion; provided that where the application is completed during the last 51 days prior to the election but at least 21 days, excluding Saturdays and Sundays, prior to the election, the notification of rejection shall be made no less than 14 days prior to the election or the application shall constitute a valid registration. If the application is rejected after the close of the registration books as provided in G.S. 163-67(a) the board shall notify the applicant at least 14 days before the election that it has rejected his application. The applicant may appear before the board and, if he establishes his qualifications to register prior to the election, he shall be permitted to vote. The loose-leaf binders containing the precinct records and the duplicate registration record, required by G.S. 163-65(a), shall be kept at all times in a safe place.

For the purpose of receiving registration applications, registrars shall attend the voting places in their precincts only on such days and at such hours as may be fixed by the county board of elections: Provided, the county board of elections shall not require registrars to be present at the voting places for this purpose on any day later than the twenty-first day, excluding Saturdays and Sundays, prior to a primary or election. In its discretion, the county board of elections may require no attendance by registrars at the voting places for the purpose of receiving registration applications.

The county board of elections is authorized to make reasonable rules and regulations, not inconsistent with law and State Board regulations, to insure full-time registration as provided in this section.

(1901, c. 89, ss. 18, 21; Rev., ss. 4322, 4323; C.S., ss. 5946, 5947; 1923, c. 111, s. 3; 1933, c. 165, s. 5; 1947, c. 475; 1953, c. 843; 1955, c. 800; 1957, c. 784, ss. 3, 4; 1961, c. 382; 1963, c. 303, ss. 1, 2; 1967, c. 761, s. 3; c. 775, s. 1; 1969, c. 750, ss. 1, 2; 1977, c. 626, s. 1; 1979, c. 539, s. 5; c. 766, s. 2; 1981, c. 33, s. 2; 1981 (Reg. Sess., 1982), c. 1265, s. 6; 1983, c. 553.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out. inserted "judges of election" and "judge of election" in the third paragraph of subsection (a).

**Effect of Amendments.** —

The 1983 amendment, effective July 1, 1983,

## § 163-72.1. Cancellation of prior registration.

(e) When a county or municipal board of elections in this State receives from another county board of elections in this State, or from appropriate elections officials of another state or political subdivision in another state, a signed authorization directing the removal of a person's name from the county's or municipality's permanent registration records, the board shall remove the person's name from its registration records, provided however, that the registrant shall be reinstated by the chairman upon showing just cause.



(f) The board of elections is responsible for the safekeeping of the authorization and any other documents relating to the cancellation of prior registration pursuant to this section. Except as provided in subsection (c), the board shall retain them for a period of at least five years after obtaining the authorization.  
(1973, c. 793, s. 28; c. 1223, s. 4; 1977, c. 265, s. 3; 1983, c. 411, ss. 1, 2.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amendment, effective Sept. 1, 1983, in subsection (e), deleted "or municipal" following "receives from another county," deleted "20 days after giving written notice of receipt of the authorization to the person at the local address shown in the county's registration records and in the authorization" preceding "shall remove", added the proviso and deleted a former second paragraph, relating to a challenge to the removal of one's name from the records; in the second sentence of subsection (f), substituted "five years" for "one year."

§ 163-72.3. Change of address on election day; authorization to vote.

- (a) A registered voter who has moved from one precinct to another within the same county more than 30 days before a primary or election, but who has not submitted a change of address report as provided in G.S. 163-72.2, nevertheless may vote under the following procedure:
- (1) On the day of the primary or election the voter must go to the polling place for the precinct at which the voter is registered.
  - (2) Upon determining that the voter is registered in that precinct but moved more than 30 days before, the precinct registrar or a judge shall issue to the voter a certificate of removal on the following form:

"NOTICE OF ELECTION DAY TRANSFER

On this day (name of voter as it appears in registration records),  
(address on voter's record),  
recorded as residing at , appeared before the undersigned precinct official. This person has not voted this date in this precinct and hereby requests that he or she be permitted to vote after executing the required transfer certificate.

Registrar or Judge  
Name and number of precinct

Signature of voter

TAKE THIS CERTIFICATE TO THE COUNTY BOARD OF ELECTIONS".

- (3) Upon issuance of the certificate to the voter, the precinct official shall mark the voter's registration record with a "T" in the appropriate voting square to indicate that the voter has transferred.
- (4) The voter shall take the certificate of removal to the precinct transfer assistant at the county board of elections' office. Upon determining that the voter moved more than 30 days before the election, that the voter now resides in another precinct within the county, and that the voter is otherwise qualified to vote in the election, the precinct transfer assistant shall have the voter complete the proper precinct transfer forms. The precinct transfer assistant shall then provide the voter



with the proper ballots for the precinct where the voter now resides. If the voter fails to take the certificate of removal to the precinct transfer assistant at the county board of elections' office by the time the polls close on election day, the voter may at a later date submit a change of address report under G.S. 163-72.2 to become effective as provided by law.

- (5) After marking the ballots in a booth or separate room provided for that purpose, the voter shall place the ballots in an envelope provided by the precinct transfer assistant. That envelope shall have printed or stamped on it the following:

Transfer voter ballot # \_\_\_\_\_

Assigned precinct \_\_\_\_\_

The precinct transfer assistant shall write the proper information in the blanks before giving the envelope to the voter.

- (6) The precinct transfer assistant shall enter in a book provided by the board of elections the name of each voter permitted to vote under this section, the number assigned to the voter's ballot and envelope, the precinct in which the voter was previously registered, and the precinct to which the voter has transferred.
- (7) Envelopes containing ballots voted under this section shall be retained by the county board of elections to be counted by the board, or assistants appointed by it, after the polls close on election day. The results of such ballots shall be added to the precinct results for the precinct to which the voter transferred.
- (8) A person voting under this section shall be entitled to the same assistance as provided in G.S. 163-152.
- (9) The precinct officials and precinct transfer assistant may require a person to show identification if needed to establish that the person is entitled to vote under this section.
- (b) The county board of elections shall either designate a board employee or appoint another person to serve as a precinct transfer assistant. County boards of elections in counties with 70,000 or more registered voters may appoint two precinct transfer assistants, and boards in counties with 100,000 or more registered voters may appoint three assistants. In addition, board members and employees may perform the duties of a precinct transfer assistant.
- (c) The board may appoint precinct transfer assistants in addition to those authorized by subsection (b) and assign them to locations other than the board of elections' office, provided the board adopts a resolution approving such additional appointments and gives written notice to the State Board of Elections of the additional locations at least 60 days before the election. If additional locations are established, the county board may make the appropriate changes in the forms and procedures to be used under subsection (a).
- (d) Each precinct transfer assistant shall be paid at least thirty-five dollars (\$35.00) for the duties performed on election day, and may be paid additional compensation as recommended by the board of elections and authorized by the board of county commissioners. (1983, c. 392, s. 2.)

**Editor's Note.** — Session Laws 1983, c. 392, s. 3, makes this section effective Sept. 1, 1983.



## § 163-74. Record of political party affiliation or unaffiliated status; changing recorded affiliation; correcting erroneous record.

(b) Change of Party Affiliation or Unaffiliated Status. — No registered elector shall be permitted to change the record of his party affiliation or unaffiliated status for a primary, second primary or special or general election after the close of the registration books immediately prior to any such election. Any registrant who desires to have the record of his party affiliation or unaffiliated status changed on the registration book shall, no later than the twenty-first day (not including Saturdays and Sundays) before the election go to the chairman or the supervisor of elections of the county board of elections or to other registration officials specified in G.S. 163-80 and request that the change be made. Before being permitted to have the change made, the chairman, supervisor of elections or other registration official shall require the registrant to take the following oath, and it shall be the duty of the elections officer to administer it:

- (1) If the voter desires to change from one political party to another, or from unaffiliated to a political party:

I, . . . . ., do solemnly swear (or affirm) that I desire in good faith to change my party affiliation from the . . . . . Party (or from unaffiliated status) to the . . . . . Party, and that such change of affiliation be made on the registration records in the manner provided by law, so help me, God.

- (2) If the voter desires to change his affiliation with any political party to unaffiliated status:

I, . . . . ., do solemnly swear (or affirm) that I desire in good faith to change my party affiliation with the . . . . . Party to unaffiliated and that such change of affiliation be made on the registration records in the manner provided by law, so help me, God.

Upon receipt of the required oath, the county board of elections shall immediately change the record of the registrant's party affiliation, or unaffiliated status, to conform to that stated in the oath. Thereafter the voter shall be considered registered and qualified to vote in accordance with the effected change.

(1939, c. 263, s. 6; 1949, c. 916, ss. 4, 8; 1953, c. 843; 1955, c. 800; c. 871, s. 3; 1957, c. 784, s. 5; 1963, c. 303, s. 1; 1967, c. 775, s. 1; 1973, c. 793, ss. 30, 31; c. 1223, s. 5; 1975, c. 234, s. 2; 1977, c. 130, s. 1; c. 626, s. 1; 1981, c. 33, s. 4; c. 219, s. 4; 1983, c. 576, s. 4.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendments, it is not set out.

### Effect of Amendments. —

The 1983 amendment, effective July 1, 1983,

deleted the last sentence of subsection (b), which read: "Party affiliation may also be changed as provided in G.S. 163-96(c)."

## § 163-80. Officers authorized to register voters.

- (a) Only the following election officials shall be authorized to register voters:

- (1) Any member of a county board of elections who has been duly appointed pursuant to G.S. 163-22(c) and properly installed as required by G.S. 163-30 and 163-31.
- (2) The supervisor of elections of a county board of elections appointed pursuant to the provisions of G.S. 163-35.
- (3) Precinct registrars and judges of election appointed pursuant to the provisions of G.S. 163-41.



- (4) Special registration commissioners appointed pursuant to the authority and limitation contained in G.S. 163-41(b).
- (5) Full-time and salaried deputy supervisors of elections employed by the county board of elections and who work under the direct supervision of the board's supervisor of elections appointed pursuant to the provisions contained in G.S. 163-35.
- (6) Local public library employees designated by the governing board of such public library to be appointed by the county board of elections as special library registration deputies. Appointment of such deputies is mandatory for libraries covered by G.S. 153A-272; appointment is optional for other libraries. Persons appointed under this subsection shall be given the oath contained in G.S. 163-41(b), and shall be authorized to accept applications to register on those days and during those hours said special deputies are on duty with their respective libraries. If, for good and valid reasons, the local public library director shall request that the county board of elections appoint "replacement" special library registration deputies before the two-year term ends, the county board of elections shall do so.
- (7) Public high school employees appointed under this subdivision. A local board of education may, but is not required to, designate high school employees to be appointed by the county board of elections as special high school registration commissioners. Only employees who volunteer for this duty, and who are acceptable to the county board of elections, may be designated by boards of education. A special high school registration commissioner may register voters only while on duty as a high school employee and only at times and under arrangements approved by the local school board of education. A person appointed under this subdivision shall take the oath prescribed in G.S. 163-41(b).

(1975, c. 234, s. 1; 1977, c. 626, s. 1; 1983, c. 588, ss. 2, 3; c. 707.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendments, it is not set out.

**Effect of Amendments.** — The first 1983 amendment, effective Oct. 1, 1983, inserted the

present second sentence of subdivision (a)(6) and added the last sentence of that subdivision.

The second 1983 amendment, effective Oct. 1, 1983, added subdivision (7) of subsection (a).

## § 163-81. Driver license examiners authorized to accept applications to register voters.

(a) Notwithstanding any other provision of law, the State Board of Elections is authorized to appoint as special registration commissioners duly appointed driver license examiners of the Division of Motor Vehicles.

The State Board of Elections may appoint such number of license examiners as it deems necessary as special registration commissioners, and the persons appointed shall serve at the pleasure of the State Board of Elections, and may be removed as a registration commissioner at any time for any reason satisfactory to the Board.

Before entering upon the duties of the office each special registration commissioner shall take the oath of office prescribed in Section 7 of Article VI of the North Carolina Constitution.

(b) Special registration commissioners appointed under this section are authorized to accept applications to register persons who are qualified for registration regardless of that person's voting precinct or county of residence in the State. The special registration commissioners appointed pursuant to this section shall possess those qualifications set forth in G.S. 163-41(b), and shall



have the same authority to accept applications to register voters as is conferred upon registration officials in this Chapter.

(c) The Division of Motor Vehicles shall, pursuant to the rules and regulations adopted by the State Board of Elections, afford a person who applies for original issuance, renewal or correction of a driver's license an opportunity to complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The necessary forms shall be prescribed by the State Board of Elections. All applications shall be forwarded to the appropriate county board of elections.

Registration shall become effective as provided in G.S. 163-67(a).

(d) The State Board of Elections is authorized to promulgate rules and regulations necessary to implement the provisions of this section. (1983, c. 854, s. 1.)

**Editor's Note.** — Session Laws 1983, c. 854, s. 3, makes this section effective on ratification. The act was ratified July 20, 1983.

**§§ 163-82, 163-83:** Reserved for future codification purposes.

## SUBCHAPTER IV. POLITICAL PARTIES.

### ARTICLE 9.

#### *Political Party Definition.*

#### **§ 163-96. "Political party" defined; creation of new party.**

(a) Definition. — A political party within the meaning of the election laws of this State shall be either:

- (1) Any group of voters which, at the last preceding general State election, polled for its candidate for Governor, or for presidential electors, at least ten percent (10%) of the entire vote cast in the State for Governor or for presidential electors; or
- (2) Any group of voters which shall have filed with the State Board of Elections petitions for the formulation of a new political party which are signed by registered and qualified voters in this State equal in number to two percent (2%) of the total number of voters who voted in the most recent general election for Governor. Also the petition must be signed by at least 200 registered voters from each of four congressional districts in North Carolina. To be effective, the petitioners must file their petitions with the State Board of Elections before 12:00 noon on the first day of June preceding the day on which is to be held the first general State election in which the new political party desires to participate. The State Board of Elections shall forthwith determine the sufficiency of petitions filed with it and shall immediately communicate its determination to the State chairman of the proposed new political party.

(b) Petitions for New Political Party. — Petitions for the creation of a new political party shall contain on the heading of each page of the petition in bold print or all in capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN . . . . . COUNTY HEREBY PETITION FOR THE FORMATION OF A NEW POLITICAL PARTY TO BE NAMED . . . . . AND WHOSE STATE CHAIRMAN IS . . . . ., RESIDING AT



..... AND WHO CAN BE REACHED BY TELEPHONE AT  
..... THE SIGNERS OF THE PETITION INTEND TO ORGANIZE A NEW  
POLITICAL PARTY TO PARTICIPATE IN THE NEXT SUCCEEDING  
GENERAL ELECTION.”

All printing required to appear on the heading of the petition shall be in type no smaller than 10 point or in all capital letters, double spaced typewriter size. In addition to the form of the petition, the organizers and petition circulators shall inform the signers of the general purpose and intent of the new party.

The petitions must specify the name selected for the proposed political party. The State Board of Elections shall reject petitions for the formation of a new party if the name chosen contains any word that appears in the name of any existing political party recognized in this State or if, in the Board’s opinion, the name is so similar to that of an existing political party recognized in this State as to confuse or mislead the voters at an election.

The petitions must state the name and address of the State chairman of the proposed new political party.

The validity of the signatures on the petitions shall be proved in accordance with one of the following alternative procedures:

- (1) The signers may acknowledge their signatures before an officer authorized to take acknowledgments, after which that officer shall certify the validity of the signatures by appropriate notation attached to the petition, or
- (2) A person in whose presence a petition was signed may go before an officer authorized to take acknowledgments and, after being sworn, testify to the genuineness of the signatures on the petition, after which the officer before whom he has testified shall certify his testimony by appropriate notation attached to the petition.

Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained, and it shall be the chairman’s duty:

- (1) To examine the signatures on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his county.
- (2) To attach to the petition his signed certificate
  - a. Stating that the signatures on the petition have been checked against the registration records and
  - b. Indicating the number found qualified and registered to vote in his county.
- (3) To return each petition, together with the certificate required by the preceding subdivision, to the person who presented it to him for checking.

The group of petitioners shall submit the petitions to the chairman of the county board of elections in the county in which the signatures were obtained no later than 5:00 P.M. on the fifteenth day preceding the date the petitions are due to be filed with the State Board of Elections as provided in subsection (a)(2) of this section. Provided the petitions are timely submitted, the chairman of the county board of elections shall require a fee of five cents (5¢) for each signature appearing and shall proceed to examine and verify the signatures under the provisions of this subsection. Verification shall be completed within two weeks from the date such petitions are presented and the required fee received.

(c) Repealed by Session Laws 1983, c. 576, s. 3, effective July 1, 1983. (1901, c. 89, s. 85; Rev., s. 4292; 1915, c. 101, s. 31; 1917, c. 218; C.S., ss. 5913, 6052; 1933, c. 165, ss. 1, 17; 1949, c. 671, ss. 1, 2; 1967, c. 775, s. 1; 1975, c. 179; 1979, c. 411, s. 3; 1981, c. 219, ss. 1-3; 1983, c. 576, ss. 1-3.)



**Effect of Amendments. —**

The 1983 amendment, effective July 1, 1983, substituted "registered and qualified voters in this State equal in number to two percent (2%) of the total number of voters who voted in the most recent general election for Governor" for "5,000 persons who, at the time they sign, are

registered and qualified voters in this State, and which comply with the conditions prescribed in subsection (b) of this section" at the end of the first sentence of subdivision (a)(2), rewrote the first paragraph of subsection (b), and deleted subsection (c) relating to the duties of county and state boards of elections.

**CASE NOTES****Requirement That Petition Signatories Become Party Members. —**

The State Board of Elections was enjoined from enforcing portions of subsection (b) of this section against a new political party which required its petitions for 1982 ballot positions to contain a clause to the effect that any signatories to the petition would automatically become members of the new party despite other affiliations. The Board

was enjoined as the party's likelihood of success in challenging the subsection's legality under U.S. Const., amends. I and XIV was likely and the balance of the hardships was on the party given the near date of the election. *North Carolina Socialist Workers Party v. North Carolina State Bd. of Elections*, 538 F. Supp. 864 (E.D.N.C. 1982).

**§ 163-99. Use of schools and other public buildings for political meetings.**

The governing authority having control over schools or other public buildings which have facilities for group meetings, or where polling places are located, is hereby authorized and directed to permit the use of such buildings without charge, except custodial and utility fees, by political parties, as defined in G.S. 163-96, for the express purpose of annual or biennial precinct meetings and county and district conventions. Provided, that the use of such buildings by political parties shall not be permitted at times when school is in session or which would interfere with normal school activities or functions normally carried on in such school buildings, and such use shall be subject to reasonable rules and regulations of the school boards and other governing authorities. (1975, c. 465; 1983, c. 519, ss. 1, 2.)

**Effect of Amendments. —** The 1983 amendment, effective June 13, 1983, substituted "annual or biennial" for "biennial", in the first

sentence, and substituted "in such school buildings" for "in such buildings in the proviso."

**SUBCHAPTER V. NOMINATION OF CANDIDATES.****ARTICLE 10.*****Primary Elections.*****§ 163-106. Notices of candidacy; pledge; with whom filed; date for filing; withdrawal.**

(h) No person may file a notice of candidacy for more than one office described in subsection (c) of this section for any one election. If a person has filed a notice of candidacy with a board of elections under this section for one office, then a notice of candidacy may not later be filed for any other office under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (e) of this section; provided that this subsection shall not apply unless the deadline for filing notices of candidacy for both offices is the same. (1915, c. 101, ss. 6, 15; 1917, c. 218; C.S.,



ss. 6022, 6035; 1921, c. 217; 1923, c. 111, s. 13; C.S., s. 6055(a); 1927, c. 260, s. 19; 1929, c. 26, s. 1; 1933, c. 165, s. 12; 1937, c. 364; 1947, c. 505, s. 7; 1949, c. 672, s. 4; c. 932; 1951, c. 1009, s. 3; 1955, c. 755; c. 871, s. 1; 1959, c. 1203, s. 4; 1965, c. 262; 1967, c. 775, s. 1; c. 1063, s. 2; 1969, c. 44, s. 83; c. 1190, s. 56; 1971, cc. 189, 675, 798; 1973, c. 47, s. 2; c. 793, s. 36; c. 862; 1975, c. 844, s. 2; 1977, c. 265, ss. 4, 5; c. 408, s. 2; c. 661, ss. 2, 3; 1979, c. 24; c. 411, s. 5; 1981, c. 32, ss. 1, 2; 1983, c. 330, s. 1.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

to elections held on or after Sept. 1, 1983, added subdivision (h).

**Effect of Amendments.** —

The 1983 amendment, effective with respect

## § 163-107. Filing fees required of candidates in primary; refunds.

(b) Refund of Fees. — If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section, withdraws his notice of candidacy within the period prescribed in G.S. 163-106(e), he shall be entitled to have the fee he paid refunded. If the fee was paid to the State Board of Elections, the chairman of that board shall cause a warrant to be drawn on the Treasurer of the State for the refund payment. If the fee was paid to a county board of elections, the chairman of the Board shall certify to the county accountant that the refund should be made, and the county accountant shall make the refund in accordance with the provisions of the County Fiscal Control Act.

If any person files a notice of candidacy and pays a filing fee to a board of elections other than that with which he is required to file under the provisions of G.S. 163-106(e), he shall be entitled to have the fee refunded in the manner prescribed in this subsection if he requests the refund before the date on which the right to file for that office expires under the provisions of G.S. 163-106(e). (1915, c. 101, s. 4; 1917, c. 218; 1919, cc. 50, 139; C.S., ss. 6023, 6024; 1927, c. 260, s. 20; 1933, c. 165, s. 12; 1939, c. 264, s. 2; 1959, c. 1203, s. 5; 1967, c. 775, s. 1; 1969, c. 44, s. 84; 1973, c. 793, s. 37; 1977, c. 265, s. 6; 1983, c. 913, s. 56.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amendment, effective July 22, 1983, rewrote the second sentence of subsection (b).

## § 163-108. Certification of notices of candidacy.

(b) No later than 10 days after the time for filing notices of candidacy under the provisions of G.S. 163-106(c) has expired, the chairman of the State Board of Elections shall certify to the chairman of the county board of elections in each county in the appropriate district the names of candidates for nomination to the following offices who have filed the required notice and pledge and paid the required filing fee to the State Board of Elections, so that their names may be printed on the official county ballots: Superior court judge, district court judge, and district attorney.

(1915, c. 101, s. 8; 1917, c. 218; C.S., s. 6028; 1927, c. 260, s. 22; 1966, Ex. Sess., c. 5, s. 8; 1967, c. 775, s. 1; 1973, c. 793, s. 38; 1979, c. 797, s. 5; 1983, c. 331, s. 1.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

ment, effective May 20, 1983, substituted "district attorney" for "solicitor" at the end of subsection (b).

**Effect of Amendments.** — The 1983 amend-



## ARTICLE 11.

*Nomination by Petition.***§ 163-122. Unaffiliated candidates nominated by petition.**

## CASE NOTES

**Stated** in North Carolina Socialist Workers Party v. North Carolina State Bd. of Elections, 538 F. Supp. 864 (E.D.N.C. 1982).

## SUBCHAPTER VI. CONDUCT OF PRIMARIES AND ELECTIONS.

## ARTICLE 12.

*Precincts and Voting Places.***§ 163-128. Election precincts and voting places established or altered.**

**Local Modification.** — Cabarrus: 1983, c. 225; Stokes: 1983, c. 225.

**§ 163-129. Structure at voting place; marking off limits of voting place.**

At the voting place in each precinct established under the provisions of G.S. 163-128, the county board of elections shall provide or procure by lease or otherwise a suitable structure or part of a structure in which registration and voting may be conducted. To this end, the county board of elections shall be entitled to demand and use any school or other State, county, or municipal building, or a part thereof, or any other building, or a part thereof, which is supported or maintained, in whole or in part by or through tax revenues provided, however, that this section shall not be construed to permit any board of elections to demand and use any tax exempt church property for such purposes without the express consent of the individual church involved, for the purpose of conducting registration and voting for any primary or election, and it may require that the requisitioned premises, or a part thereof, be vacated for these purposes.

The county board of elections shall inspect each precinct voting place to ascertain how it should be arranged for voting purposes, and shall direct the registrar and judges of any precinct to define the voting place by roping off the area or otherwise enclosing it or by marking its boundaries. The boundaries of the voting place shall at any point lie no more than 100 feet from each ballot box or voting machine. The space so roped off or enclosed or marked for the voting place may contain area both inside and outside the structure in which registration and voting are to take place. (1929, c. 164, s. 17; 1967, c. 775, s. 1; 1973, c. 793, s. 54; 1983, c. 411, s. 3.)



**Effect of Amendments.** — The 1983 amendment, effective Sept. 1, 1983, inserted the language beginning "or any other building" and

ending "express consent of the individual church involved" in the second sentence of the first paragraph.

## ARTICLE 13.

### *General Instructions.*

#### § 163-151. Marking ballots in primary and election.

The voter shall adhere to the following rules and those instructions printed on the ballot in marking his ballots:

(6) Write-In Votes. —

- a. In an election but not in a primary, if a voter desires to vote for a person whose name is not printed on the ballot, he shall write in the name of the person in the space immediately beneath the name of a candidate, if any, printed on the ballot for that particular office. The voter shall write the name himself unless he is entitled to assistance under G.S. 163-152, in which case the person giving assistance may write in the name at the request of the voter.
- b. The voter should not write in a name of a person whose name appears as a candidate of a political party or as an unaffiliated candidate. If the voter writes in the name of a candidate printed on the ballot of any party, the write-in shall not be counted.
- c. If the voter has marked the party circle of one political party, he may also write in the name of a person for whom he wishes to vote beneath the name of a candidate printed in the same column whose party circle he has marked.
- d. If the voter has marked the party circle of one party, he should not write in the name of a person under the name of a candidate in any other party. In such case, the write-in shall not be counted, but the ballot shall be counted for all candidates of the party whose circle was marked.
- e. No voter shall write the name of any person on a primary ballot. (1929, c. 164, ss. 21, 28; 1931, c. 254, s. 15; 1933, c. 165, s. 23; 1939, c. 116, s. 2; 1947, c. 505, s. 10; 1955, c. 812, s. 2; c. 1104, ss. 1-2½; 1957, cc. 344, 440, 589, 647, 737, 1383; 1959, cc. 105, 604, 610, 888; c. 1203, ss. 8, 9; 1961, c. 451; 1963, cc. 154, 167, 376, 389, 390, 567, 774; 1965, cc. 119, 154, 547, 727; c. 1117, s. 3; 1967, c. 775, s. 1; c. 1016; 1969, cc. 190, 917, 1253; 1971, c. 807; 1973, c. 793, s. 62; 1979, c. 802, s. 1; 1983, c. 324, s. 4.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

ment, effective Sept. 1, 1983, inserted "or as an unaffiliated candidate" at the end of the first sentence of paragraph (6)b.

**Effect of Amendments.** — The 1983 amend-

#### § 163-152. Assistance to voters in primaries and general elections.

**Local Modification to Former §§ 163-172 and 163-173.** — By virtue of Session Laws

1983, c. 310, Cherokee should be stricken from the replacement volume.



## § 163-153. Access to voting enclosure.

In all counties, only the following persons shall be allowed within the voting enclosure while the polls are open to voting:

- (1) Officers of election, that is, members of the State Board of Elections, members of the county board of elections, supervisors of elections, and the precinct registrar, precinct judges of election, and assistants appointed for the precinct under the provisions of G.S. 163-42.  
(1929, c. 164, s. 24; 1955, c. 871, s. 7; 1967, c. 775, s. 1; 1969, c. 1280, s. 1; 1973, c. 793, ss. 64, 94; 1979, c. 357, s. 5; 1983, c. 411, s. 4.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amendment, effective Sept. 1, 1983, inserted "supervisors of elections" in subdivision (1).

## ARTICLE 15.

### *Counting Ballots, Canvassing Votes, and Certifying Results in Precinct and County.*

## § 163-169. Counting ballots at precincts; unofficial report of precinct vote to county board of elections.

(e) **Counting Primary Ballots.** — In a primary election the ballots shall be emptied on a table in full view of the precinct election officials, ballot counters, if used, and witnesses present. Identically marked ballots may be arranged in orderly piles to be counted. The results of those counts shall be stated aloud and the totals recorded on the tally sheet. For all other ballots, the name of each candidate voted for shall be read aloud distinctly, and the vote received by each candidate shall be tallied on the tally sheet. This procedure shall be followed for all boxes being counted.

(1933, c. 165, s. 8; 1953, c. 843; 1955, cc. 800, 891; 1961, c. 487; 1963, c. 303, s. 1; 1965, c. 871; 1967, c. 775, s. 1; 1973, c. 793, s. 94; 1977, c. 265, s. 12; 1979, c. 802, s. 2; 1983, c. 411, s. 5.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amendment, effective Sept. 1, 1983, rewrote subsection (e).

## § 163-170. Rules for counting ballots.

Only official ballots shall be voted and counted. No official ballot shall be rejected because of technical errors in marking it unless it is impossible to determine the voter's choice. In applying the general rule, all election officials shall be governed by the following rules:

- (5) **Write-In Votes.** — If a name has been written in on an official general election ballot as provided in G.S. 163-151, it shall be counted in accordance with the following rules:
  - a. The name written in shall not be counted unless written in by the voter or a person authorized to assist the voter pursuant to G.S. 163-152.
  - b. The name shall be written in immediately below the name of a candidate for a particular office, if any, and shall be counted as a vote for the person whose name has been written in for that office. If the voter has made a mark to the left of the name written in,



or checked in the party circle or the square beside the name of a candidate below whose name the write-in appears, or if the voter strikes out, marks through or crosses out the name printed above the write-in, such action by the voter shall not serve to invalidate the ballot or the vote for the person whose name was written in for that particular office.

- c. If the person whose name was written in appears as a candidate of a political party or as an unaffiliated candidate for any office, the write-in shall be ignored and the ballot shall be counted as though no write-in appeared for such office.

d. Marking Party Circle and Write-Ins. —

1. If the voter marks the party circle above the column in which he has entered the write-in, his ballot shall be counted as a vote for the person whose name has been written in, and for all other candidates of the party in whose circle he has marked, except the candidate beneath whose printed name the write-in appears.
2. If the voter has marked the party circle at the top of the column of a political party, and has made a write-in under the name of a candidate printed in a column of a different political party, the write-in shall not be counted, and the ballot shall be counted as a vote for all candidates of the party in whose circle he has marked.

(1929, c. 164, s. 28; 1931, c. 254, s. 15; 1933, c. 165, ss. 8, 23; 1939, c. 116, s. 2; 1947, c. 505, s. 10; 1955, c. 812, s. 2; c. 891; c. 1104, ss. 1-2½; 1957, cc. 344, 440, 589, 647, 737, 1383; 1959, cc. 105, 604, 610, 888; c. 1203, s. 9; 1961, cc. 451, 487; 1963, cc. 154, 167, 376, 389, 390, 567, 774; 1965, cc. 119, 154, 547, 727; c. 1117, s. 3; 1967, c. 775, s. 1; 1973, c. 793, s. 68; 1979, c. 802, s. 3; 1983, c. 324, s. 5.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amendment, effective Sept. 1, 1983, inserted "or as an unaffiliated candidate" in paragraph (5)c.

## § 163-181. Certification of election stayed when election is contested.

The chairman of the county or city board of elections shall not issue a certification of election or nomination or the results of a referendum if there is an election contest pending before the county or city board of election or before the State Board of Elections on appeal or otherwise.

Appeals from a decision of the State Board of Elections shall be to the Superior Court of Wake County.

A copy of the State Board of Elections' final decision shall be served on the parties personally or by certified mail. After the decision by the State Board of Elections has been served on the parties, the certification of election shall issue unless the appealing party petitions the Superior Court of Wake County for a stay of the certification within 10 days after the date of service.

The Superior Court of Wake County shall not issue a stay of certification unless the petitioner shows the court that he intends to appeal the decision of the State Board of Elections and that he is likely to prevail and that the results of the election would be changed in his favor. Mere irregularities in the election which would not change the results of the election shall not be sufficient for the court to issue a stay of certification. (1933, c. 165, s. 8; 1947, c. 505, s. 4; 1955, c. 871, s. 5; 1959, c. 1203, s. 3; 1966, Ex. Sess., c. 5, s. 5; 1967, c. 775, s. 1; 1975, c. 844, s. 9; 1977, c. 661, s. 4; 1983, c. 329.)



**Effect of Amendments.** — The 1983 amendment, effective May 20, 1983, rewrote this section.

## ARTICLE 18A.

### *Presidential Preference Primary Act.*

#### **§ 163-213.2. Primary to be held; date; qualifications and registration of voters.**

Beginning with the Tuesday after the first Monday in May, 1980, and every four years thereafter, the voters of this State shall be given an opportunity to express their preference for the person to be the presidential candidate of their political party.

Any person otherwise qualified who will become qualified by age to vote in the general election held in the same year of the presidential preference primary shall be entitled to register and vote in the presidential preference primary. Such persons may register not earlier than 60 days nor later than the 21st day prior to the said primary. (1971, c. 225; 1975, c. 744; c. 844, s. 18; 1977, c. 19; c. 661, s. 7; 1983, c. 331, s. 5.)

**Effect of Amendments.** — The 1983 amendment, effective May 20, 1983, substituted "the 21st day" for "21 days" in the second sentence of the second paragraph.

#### **§ 163-213.4. Nomination by State Board of Elections.**

The State Board of Elections shall convene in Raleigh on the seventy-fifth (75th) day preceding the presidential preference primary election. At the meeting required by this section, the State Board of Elections shall nominate as presidential primary candidates all candidates affiliated with a political party, recognized pursuant to the provisions of Article 9 of Chapter 163 of the General Statutes, who have become eligible to receive payments from the Presidential Primary Matching Payment Account, as provided in section 9033 of the U.S. Internal Revenue Code of 1954, as amended. Immediately upon completion of these requirements, the Board shall release to the news media all such nominees selected. Provided, however, nothing shall prohibit the partial selection of nominees prior to the meeting required by this section, if all provisions herein have been complied with. (1971, c. 225; 1975, c. 744; 1983, c. 729.)

**Effect of Amendments.** — The 1983 amendment, effective July 12, 1983, substituted "seventy-fifth (75th) day" for "Tuesday following the first Monday in February" in the first sentence.

#### **§ 163-213.8. Allocation of delegate positions to reflect division of votes in the primary.**

(a) Upon completion and certification of the primary results by the State Board of Elections, the Secretary of State shall certify the results to the State chairman of each political party.

Each political party shall allocate delegate positions in a manner which reflects the division of votes of the party primary consistent with the national party rules of that political party.



(1971, c. 225; 1975, c. 744; 1979, c. 800; 1983, c. 216, ss. 1, 2.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amend-

ment, effective April 22, 1983, substituted the present second paragraph for the former second, third and fourth paragraphs of subsection (a) and rewrote the catchline.

## SUBCHAPTER VII. ABSENTEE VOTING.

### ARTICLE 20.

#### *Absentee Ballot.*

### § 163-226.3. Certain acts declared felonies.

(a) Any person who shall, in connection with absentee voting in any primary, general, municipal or special election held in this State, do any of the acts or things declared in this section to be unlawful, shall be guilty of a felony and upon conviction shall be imprisoned for not less than six months or fined not less than one thousand dollars (\$1,000), or both, in the discretion of the court. It shall be unlawful:

- (1) For any person except the voter's near relative as defined in G.S. 163-227(c)(4) or the voter's legal guardian to assist the voter to vote an absentee ballot when the voter is voting an absentee ballot other than under the procedure described in G.S. 163-227.2; provided that if there is not a near relative or legal guardian available to assist the voter, the voter may request some other person to give assistance;
- (2) For any person to assist a voter to vote an absentee ballot under the absentee voting procedure authorized by G.S. 163-227.2 except a member of the county board of elections, the supervisor of elections, an employee of the board authorized by the board, the voter's near relative as defined in G.S. 163-227(c)(4), or the voter's legal guardian;
- (3) For a voter who votes an absentee ballot under the procedures authorized by G.S. 163-227.2 to vote his absentee ballot outside of the voting booth or private room provided to him for that purpose in the office of the county board of elections or to receive assistance in getting to and from the voting booth or private room and in preparing and marking his ballots from any person other than a member of the county board of elections, the supervisor of elections, an employee of the board of elections authorized by the board, a near relative of the voter as defined in G.S. 163-227(c)(4), or the voter's legal guardian;
- (4) For any owner, manager, director, employee, or other person, other than the voter's near relative as defined in G.S. 163-227(c)(4) or legal guardian, to make application on behalf of a registered voter who is a patient in any hospital, clinic, nursing home or rest home in this State or for any owner, manager, director, employee, or other person other than the voter's near relative or legal guardian, or officer authorized to administer oaths acting pursuant to G.S. 163-231(a)(1), to mark the voter's absentee ballot or assist such a voter in marking an absentee ballot;
- (5) For any officer with a seal to take the acknowledgement on the container-return envelope of any absentee voter in any primary or election in which the officer is a candidate for nomination or election;
- (6) For any person to take into his possession for delivery to a voter or for return to a county board of elections the absentee ballot of any voter, provided, however, that this prohibition shall not apply to a voter's



near relative as defined in G.S. 163-227(c)(4) or the voter's legal guardian;

- (7) Except as provided in subsections (1), (2), (3), and (4) of this section and G.S. 163-227.2(e), for any voter to permit another person to assist him in marking his absentee ballot, to be in the voter's presence when a voter votes an absentee ballot, or to observe the voter mark his absentee ballot.

(1979, c. 799, s. 4; 1983, c. 331, s. 2.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amend-

ment, effective May 20, 1983, inserted "or officer authorized to administer oaths acting pursuant to G.S. 163-231(a)(1)" in subdivision (a)(4).

## § 163-227. State Board to prescribe forms of applications for absentee ballots; county to secure.

(b) Forms of Applications; Instructions. —

- (1) Expected Absence from County on Election Day; Form A. — A voter expected to be absent from the county in which registered during the entire period that the polls will be open on primary or general election day, or a near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which the voter is registered not earlier than 60 days nor later than 5:00 P.M. on the Thursday before the election. The application shall be submitted in the form set out in this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The applicant shall sign his application personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness, who shall sign his name in the place provided on the form. The application form when properly filled out shall be transmitted by mail or delivered in person by the applicant or a near relative to the chairman or the supervisor of elections of the county board of elections.

- (2) Absence for Sickness or Physical Disability Occurring before 5:00 P.M. on the Thursday prior to the Primary or General Election; Form B. — A voter expecting to be unable to go to the voting place to vote in person on primary or general election day because of his sickness or other physical disability, or his near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which the voter is registered not earlier than 60 days nor later than 5:00 P.M. on the Thursday before the election. The application shall be submitted in the form set out in this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The application shall be signed by the voter personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness, who shall sign his name in the place provided on the form.

The application form, when properly filled out, shall be transmitted by mail or delivered in person by the applicant or a near relative to the chairman or supervisor of elections of the county board of elections of the county in which the applicant is registered.

- (3) Absence for Sickness or Physical Disability Occurring after 5:00 P.M. on the Thursday prior to Primary or General Election; Form C. — A



voter expecting to be unable to go to the voting place to vote in person on primary or general election day because of sickness or other disability occurring after 5:00 P.M. on the Thursday before the election, or a near relative, shall make written application for absentee ballots to the chairman of the board of elections of the county in which he is registered not later than 12:00 noon on the day preceding the election. The application shall be submitted in the form set out in this subdivision upon a copy which shall be furnished the voter or a near relative by the chairman of the county board of elections.

The chairman of the county board of elections shall not issue or accept an application under the provisions of this subdivision later than 12:00 noon on the day preceding the election in which the voter seeks to vote.

The application shall be signed by the voter personally, or it shall be signed by a near relative. The application shall be signed in the presence of a witness who shall sign his name in the place provided on the form.

The certificate printed on the application form below the signatures of the applicant and his subscribing witness shall be filled in and signed in the presence of a witness by a licensed physician who is attending the applicant. The witness to the physician's certificate shall sign his name in the place provided on the form.

The application form, when properly filled out, signed by or for the applicant in the presence of a subscribing witness as provided in this subdivision, and certified and signed by the attending physician in the presence of a subscribing witness, may be transmitted by mail to the chairman or supervisor of elections of the board of elections of the county in which the applicant is registered, or it may be delivered to the chairman or supervisor of elections in person by the applicant or by his near relative.

- (4) "One-Stop" Voting Procedure, in Office of the County Board of Elections; Form OS. — A voter falling in the category specified in G.S. 163-227.2 may execute Form OS and proceed to vote his absentee ballot in the office of the county board of elections only.

(1939, c. 159, s. 2; 1943, c. 751, s. 1; 1963, c. 457, s. 2; 1967, c. 775, s. 1; c. 952, s. 3; 1971, c. 947, ss. 1-5; 1973, c. 536, s. 1; c. 1075, ss. 1-3; 1975, c. 19, s. 69; c. 844, s. 11; 1977, c. 469, s. 1; c. 626, s. 1; c. 680; 1981, c. 155, s. 3; c. 305, s. 1; 1983, c. 331, s. 3.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

1983, substituted "Thursday" for "Wednesday" in the first sentence of subdivision (b)(1).

**Effect of Amendments.** —

The 1983 amendment, effective May 20,

## § 163-227.2. Alternate procedures for requesting application for absentee ballot; "one-stop" voting procedure in board office.

**Local Modification.** — Orange: 1983, c. 192.



### § 163-230.1. Simultaneous issuance of absentee ballots with application.

(a) When a qualified voter personally requests by mail an application for absentee ballots, the county board of elections shall cause to be mailed to that voter in a single package:

- (1) The appropriate application form under G.S. 163-227;
- (2) The official ballots the voter is entitled to vote if his application is approved;
- (3) A container-return envelope for the ballots;
- (4) A large envelope (similar to a No. 14 or larger manila envelope) in which the application and container-return envelope with the ballots may be returned; and
- (5) An instruction sheet.

The application, ballots, envelopes and instructions shall be mailed to the voter by the county board's chairman, secretary or supervisor as determined by the board and entered in its official minutes.

The application issued under this section shall have clearly printed or stamped on it the following statement: DO NOT PLACE THE APPLICATION IN THE ENVELOPE WITH YOUR BALLOTS — RETURN BOTH THE APPLICATION AND BALLOT ENVELOPE IN THE LARGE TRANSMITTAL ENVELOPE.

(b) The application shall be completed, the ballots marked, the ballots sealed in the container-return envelope, and the container-return envelope affidavit completed as provided in G.S. 163-227 and G.S. 163-231. The application shall not be placed in the container-return envelope. The application and the container-return envelope shall be placed separately in the large transmittal envelope for return to the chairman of the county board of elections.

(c) At its next official meeting after return of the completed application and container-return envelope with the voter's ballots, the county board of elections shall determine whether the application and container-return envelope have been properly executed. If the board determines that both the application and container-return envelope have been properly executed, it shall approve the application and deposit the container-return envelope with other container-return envelopes for the envelope to be opened and the ballots counted at the same time as all other container-return envelopes and absentee ballots.

(d) The provisions of this section shall apply only to requests received by mail from and signed by the voter individually and personally. No near relative, guardian, or other person other than the voter himself shall be permitted to apply for absentee ballots under this section.

(e) The State Board of Elections, by regulation or by instruction to the county board of elections, shall establish procedures to provide appropriate safeguards in the implementation of this section. (1983, c. 304, s. 1.)

**Editor's Note.** — Session Laws 1983, c. 304, s. 2, makes this section effective July 1, 1983.



ARTICLE 21.

*Military Absentee Registration and Voting in Primary and General Elections.*

**§ 163-251. Certified list of approved military absentee ballot applications; record of ballots received; disposition of list; list constitutes registration.**

(a) Preparation of List. — The chairman of the county board of elections shall prepare, or cause to be prepared, a list in quadruplicate of all military absentee ballots returned to the county board of elections to be counted which have been approved by the county board of elections. At the end of the list the chairman shall execute the following certificate under oath:

"State of North Carolina

County of .....

I, ....., Chairman of the ..... County Board of Elections, do hereby certify that the foregoing is a list of all executed military absentee ballots to be voted in the election to be conducted on the ..... day of ....., 19 ....., which have been approved by the County Board of Elections. I further certify that I have issued ballots to no other persons than those listed herein and further that I have not delivered military absentee ballots to persons other than those listed herein; that this list constitutes the only precinct registration of military absentee voters whose names have not heretofore been entered on the regular registration of the appropriate precinct. This the ..... day of ..... 19 .....

.....  
(Signature of Chairman of County Board of Elections)

Sworn to and subscribed before me this ..... day of ..... 19 .....

.....  
(Signature of Officer administering oath)

.....  
(Title of officer)"

(b) Distribution of List. — No earlier than 3:00 P.M. on the day before the election and no later than 10:00 A.M. on election day, the chairman shall cause one copy of the list of executed military absentee ballots, which may be a continuing countywide list or a separate list for each precinct, to be immediately deposited as first-class mail to the State Board of Elections, Post Office Box 1166, Raleigh, North Carolina 27602. The chairman shall retain one copy in the board office for public inspection and he shall cause two copies of the appropriate precinct list to be delivered to the registrar of each precinct in the county. The registrar shall post one copy in the voting place and retain one copy until all challenges of absentee ballots have been heard by the county board of elections. Challenges shall be made as provided in G.S. 163-89.

After receipt of the list of absentee voters required by this section the registrar shall call the name of each person recorded on the list and enter an "A" in the appropriate voting square on the voter's permanent registration record, if any. If such person is already recorded as having voted in that election, the registrar shall enter a challenge which shall be presented to the chairman of the county board of elections for resolution by the board of elections prior to certification of results by the board.

(1941, c. 346, ss. 7-10, 12, 13; 1943, c. 503, ss. 4, 5; 1963, c. 457, s. 15; 1967, c. 775, s. 1; 1973, c. 536, s. 2; 1977, c. 265, s. 17; 1979, c. 797, s. 3; 1981, c. 155, s. 2; c. 308, s. 3; 1983, c. 331, s. 4.)



**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** —  
The 1983 amendment, effective May 20, 1983, rewrote subsections (a) and (b).

## SUBCHAPTER VIII. REGULATION OF ELECTION CAMPAIGNS.

### ARTICLE 22A.

#### *Regulating Contributions and Expenditures in Political Campaigns.*

##### Part 1. In General.

#### § 163-278.6. Definitions.

When used in this Article:

- (4) The term "candidate" means any individual who, with respect to a public office listed in G.S. 163-278.6(18), has filed a notice of candidacy or a petition requesting to be a candidate, or has been certified as a nominee of a political party for a vacancy, or has otherwise qualified as a candidate in a manner authorized by law.

(1973, c. 1272, s. 1; 1975, c. 798, ss. 5, 6; 1979, c. 500, s. 1; c. 1073, ss. 1-3, 19, 20; 1981, c. 837, s. 1; 1983, c. 331, s. 6.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** —  
The 1983 amendment, effective May 20, 1983, rewrote subdivision (4).

### ARTICLE 22B.

#### *Appropriations from the North Carolina Election Campaign Fund.*

#### § 163-278.41. Appropriations in general election years and other years.

(a) Following the conclusion of the last primary or nominating convention held by a political party in a general election year in which a presidential election is held, the State chairman of that political party may apply to the State Treasurer for the disbursement of all funds deposited on behalf of such party in the North Carolina Election Campaign Fund. Upon receipt of such application, the State Treasurer shall forthwith, and every 30 days thereafter, pay over to said chairman all funds currently held by him on behalf of said chairman's political party, but provided that all such payments shall cease 30 days after the State Board of Elections has certified all of the results of the general election to the Secretary of State. Additionally and upon receipt of such application, the State Treasurer shall pay over to the said chairman all funds currently held by the State Treasurer in the "Presidential Election Year Candidates Fund" of that party, which funds shall be allocated and disbursed during the presidential election year by the same procedure as the funds received from the North Carolina Campaign Election Fund are allocated. Any remaining funds of the political party in the hands of the State Treasurer shall thereafter be held by him until eligible for distribution pursuant to this section.



(1977, 2nd Sess., c. 1298, s. 2; 1983, c. 700, s. 5.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amendment, effective July 6, 1983, deleted "among

the candidates qualified therefor" following "during the presidential election year" in the next-to-last sentence in subsection (a) and at the end of that sentence.

## § 163-278.42. Distribution of campaign funds; legitimate expenses permitted.

(a) In a general election year in which a presidential election is held, every State chairman of a political party shall disburse fifty percent (50%) of all funds received from the North Carolina Campaign Election Fund to that political party. The remaining fifty percent (50%) of such funds shall be allocated by the special committee established by subsection (d) of this section and used for one or more of the purposes permitted by subsection (e) of this section. Any candidate may elect to decline in whole or in part any funds that the party chooses to distribute to the candidate.

(b) In a general election year in which there is not a presidential election, every State chairman of a political party shall disburse fifty percent (50%) of all funds received from the North Carolina Campaign Election Fund to that political party. The remaining fifty percent (50%) of such funds shall be allocated by the special committee established in subsection (d) of this section and used for one or more of the purposes permitted by subsection (e) of this section. Any candidate may elect to decline in whole or in part any funds that the party chooses to distribute to the candidate.

(d) The allocation of the remaining fifty percent (50%) of the funds under subsections (a) or (b) of this section shall be made by a committee composed of the State Chairman of that political party, the Treasurer of that party, the Congressional District Chairmen of that party, and two persons appointed by the State Chairman of that party, and the State Chairman shall serve as Chairman of this committee. The allocation of funds shall be in the sole discretion of the committee, but must be for a purpose permitted by section (e) of this section and if allocated to a candidate, shall be disbursed by the State Chairman of that party only to the Treasurer of that candidate or committee appointed under Article 22A of this Chapter.

(e) Funds distributed from the North Carolina Campaign Election Fund or from the "Presidential Election Year Candidates Fund" of a political party shall only be expended for legitimate campaign expenses. By way of illustration but not by way of limitation, the following are examples of legitimate campaign expenses:

- (1) Radio, television, newspaper, and billboard advertising for and on behalf of a political party or candidate;
- (2) Leaflets, fliers, buttons, and stickers;
- (3) Campaign staff salaries, provided each staff member is listed by name and by the amount paid as salary and the amount paid as campaign expense reimbursement;
- (4) Travel expenses, lodging and food for candidate and staff;
- (4a) Expenses to ensure compliance with federal and State campaign finance and reporting laws;
- (4b) Contributions to or expenses on behalf of candidates of that political party;
- (5) Party headquarters operations related to upcoming general elections, including the purchase, maintenance and programming of computers to provide lists of voters, party workers, officers, committee members



and participants in party functions, patterns of voting and other data for use in general election campaigns and party activities and functions prior thereto, the establishment and updating computer file systems of voter registration lists, State, district, county and precinct officers and committee member lists, party clubs or organization lists, the organizing of voter registration, fund raising and get-out-the-vote programs at the county level when conducted by State party personnel, and the preparation of reports required to be filed by State and federal laws and systems needed to prepare the same and keep records incident thereto.

(1977, 2nd Sess., c. 1298, s. 2; 1983, c. 700, ss. 1-4.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amendment, effective July 6, 1983, rewrote the second

and third sentences of subsection (a), rewrote the second and third sentences of subsection (b), rewrote subsection (d), and added subdivisions (4a) and (4b) to subsection (e).

SUBCHAPTER IX. MUNICIPAL ELECTIONS.

ARTICLE 23.

*Municipal Election Procedure.*

§ 163-280. Municipal boards of elections.

(b) On the Monday before the filing period opens for elections in that municipality, the newly appointed members of the municipal board of elections shall meet at the city hall or some other place specified by the city council and shall take the following oath of office:

"I, . . . . ., do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain, and defend the Constitution of said State, not inconsistent with the Constitution of the United States; and that I will well and truly execute the duties of the office of member of the . . . . . municipal board of elections to the best of my knowledge and ability, according to law. So help me, God."

After each member has taken the oath, the board shall organize by electing one of its members chairman and another member secretary of the board.

(1971, c. 835, s. 1; 1973, c. 793, ss. 75-79; c. 1223, s. 8; 1975, c. 19, s. 70; 1977, c. 626, s. 1; 1983, c. 644, s. 3.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amendment, effective Jan. 1, 1984, substituted "On

the Monday before the filing period opens for elections in that municipality" for "On the Monday following the ninth Saturday before the regular municipal primary or election" at the beginning of subsection (b).

§ 163-283. Right to participate or vote in party primary.

No person shall be entitled to vote or otherwise participate in the primary election of any political party unless he

- (1) Is a registered voter, and



- (2) Has declared and has had recorded on the registration book or record the fact that he affiliates with the political party in whose primary he proposes to vote or participate, and
- (3) Is in good faith a member of that party.

Any person who will become qualified by age or residence to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary election, shall be entitled to register while the registration books are open during the regular registration period prior to the primary and then to vote in the primary after being registered, provided however, under full-time and permanent registration, such an individual may register not earlier than 60 days nor later than the 21st day prior to the primary. (1971, c. 835, s. 1; 1983, c. 331, s. 5.)

**Effect of Amendments.** — The 1983 amendment, effective May 20, 1983, substituted "the 21st day" for "21 days" in the second paragraph.

## ARTICLE 24.

### *Conduct of Municipal Elections.*

#### **§ 163-291. Partisan primaries and elections.**

The nomination of candidates for office in cities, towns, villages, and special districts whose elections are conducted on a partisan basis shall be governed by the provisions of this Chapter applicable to the nomination of county officers, and the terms "county board of elections," "chairman of the county board of elections," "county officers," and similar terms shall be construed with respect to municipal elections to mean the appropriate municipal officers and candidates, except that:

- (2) A candidate seeking party nomination for municipal or district office may file his notice of candidacy with the board of elections not later than 12:00 noon on the Friday preceding the fifth Saturday and not earlier than 12:00 noon on the Friday preceding the eighth Saturday before the primary election in which he seeks to run. No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the county board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for that election unless the notice of candidacy for the first office is withdrawn first.

(1971, c. 835, s. 1; 1973, c. 870, s. 1; 1975, c. 370, s. 2; 1983, c. 330, s. 2.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amend-

ment, effective with respect to elections held on or after Sept. 1, 1983, added the last two sentences to subdivision (2).

#### **§ 163-294.2. Notice of candidacy and filing fee in nonpartisan municipal elections.**

- (c) The filing periods for candidates seeking municipal offices shall be:
  - (1) In those municipalities which conduct primaries and elections in accordance with provisions in G.S. 163-291 candidates may file their notices of candidacy with the board of elections at any time after 12:00 noon on the eighth Friday and before 12:00 noon on the fifth Friday



preceding the date on which the primary, if one is necessary, would be conducted;

- (2) In those municipalities which conduct plurality elections in accordance with provisions in G.S. 163-292 candidates may file their notices of candidacy with the board of elections at any time after 12:00 noon on the tenth Friday and before 12:00 noon on the seventh Friday preceding the election;
- (3) In those municipalities which conduct an election and runoff method in accordance with provisions in G.S. 163-293 candidates may file their notices of candidacy with the board of elections at any time after 12:00 noon on the eighth Friday and before 12:00 noon on the fifth Friday preceding the date the election is to be conducted;
- (4) In those municipalities which conduct a nonpartisan primary and election method in accordance with provisions in G.S. 163-294 candidates may file their notices of candidacy with the board of elections at any time after 12:00 noon on the eighth Friday and before 12:00 noon on the fifth Friday preceding the date on which the primary, if one is necessary, would be conducted.

Notices of candidacy which are mailed must be received by the board of elections before the filing deadline regardless of the time they were deposited in the mails.

(e) The filing fee for the primary or election shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy. There shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the filing fee at not less than five dollars (\$5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.

(f) No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for the election unless the notice of candidacy for the first office is withdrawn first. (1971, c. 835, s. 1; 1973, c. 870, s. 2; 1975, c. 370, s. 2; 1977, c. 265, s. 18; 1981, c. 32, s. 3; 1983, c. 330, s. 3; c. 644, ss. 1, 2.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendments, it is not set out.

**Local Modification.** — Polk: 1983, c. 744, s. 1.1.

**Effect of Amendments.** —

The first 1983 amendment, effective with respect to elections held on or after Sept. 1, 1983, added subsection (f).

The second 1983 amendment, effective Jan. 1, 1984, rewrote subsection (c) and in subsection (e) substituted "the day before candidates are permitted to begin filing notices of candidacy" for "Friday before the eighth Saturday before the primary or election" at the end of the first sentence.

## § 163-302. Absentee voting.

(b) The provisions of Articles 20 and 21 of this Chapter shall apply to absentee voting in municipal elections, special district elections, and other elections for an area less than an entire county other than elections for the General Assembly, except that the earliest date by which absentee ballots shall be required to be available for absentee voting in such elections shall be 30 days prior to the primary or election or as quickly following the filing deadline specified in G.S. 163-291(2) or G.S. 163-294.2(c) as the county board of elections



is able to secure the official ballots. (1971, c. 835, s. 1; 1975, c. 370, s. 1; c. 836; 1977, c. 475, s. 1; 1983, c. 324, s. 6.)

**Only Part of Section Set Out.** — As the rest of the section was not affected by the amendment, it is not set out.

**Effect of Amendments.** — The 1983 amendment, effective Sept. 1, 1983, inserted "special district elections, and other elections for an area less than an entire county other than elec-

tions for the General Assembly," substituted "available for absentee voting in such elections" for "available for absentee voting in municipal elections," and deleted "date of the municipal" preceding "primary or election" in subsection (b).



## Chapter 164.

### Concerning the General Statutes of North Carolina.

#### Article 2.

#### The General Statutes Commission.

Sec.

164-15. Meetings; quorum.

#### ARTICLE 2.

#### *The General Statutes Commission.*

#### § 164-15. Meetings; quorum.

The Commission shall hold not less than two regular meetings each year, of which one shall be held in June and one in November, at such times during those months as may be fixed therefor by the Commission itself. The Commission may hold such other regular meetings as it may provide for by its rules. Special meetings may be called by the chairman, or by any two members of the Commission, upon such notice and in such manner as may be fixed therefor by the rules of the Commission. The regular June and November meetings of the Commission shall be held in Raleigh, but the Commission may provide for the holding of other meetings from time to time at any other place or places in the State. The first meeting of the Commission shall be held in June 1945 upon the call of the Attorney General at such time and upon such notice as he may designate. A majority of the members of the Commission shall constitute a quorum. (1945, c. 157; 1983, c. 768, s. 24.)

**Effect of Amendments.**— The 1983 amendment, effective July 15, 1983, substituted

"Commission" for "Board" in the last sentence.



## Chapter 166A.

### North Carolina Emergency Management Act.

Sec.

166A-6.1. Emergency planning; charge.

#### § 166A-6.1. Emergency planning; charge.

(a) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the State of North Carolina for use of the Department of Crime Control and Public Safety an annual fee of at least thirty thousand dollars (\$30,000) for each fixed nuclear facility which is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee is to be used to assist in or partially defray such costs of planning and implementing emergency response activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. Said fee is to be paid no later than July 31 of each year. This minimum fee may be increased from time to time as the costs of such planning and implementation increase. Such increases shall be by agreement between the State and the licensees or operators of the fixed nuclear facilities.

(b) Every person, firm, corporation or municipality who is licensed to construct or who is operating a fixed nuclear facility for the production of electricity shall pay to the State of North Carolina for use of the Department of Human Resources an annual fee of no more than twelve thousand dollars (\$12,000) for each fixed nuclear facility which is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State. This fee is to be used to assist in or partially defray such costs of planning and implementing emergency response activities as are required by the Federal Emergency Management Agency for the operation of nuclear facilities. Said fee is to be paid no later than July 31 of each year. The amount of the fee for use by the Department of Human Resources shall be determined by such Department. The fee will be referred to the Department of Crime Control and Public Safety for collection.

(c) Licensees or operators of fixed nuclear facilities are required to pay the fees required by this section for the first year on or before November 1, 1981, and for succeeding years on or before July 31 of each year. In the event that any funds collected for the purposes set forth herein are unexpended at the end of the fiscal year, such funds shall be brought forward to the next fiscal year thereby proportionally reducing the fee to be assessed each fixed nuclear facility in such next fiscal year. (1981, c. 1128, ss. 1, 2; 1983, c. 622, ss. 1-3.)

**Effect of Amendments.** — The 1983 amendment, effective June 27, 1983, in subsection (a), substituted "which is located within this State or has a Plume Exposure Pathway Emergency Planning Zone of which any part is located within this State" for "located within this State" at the end of the first sentence, deleted

"of the State" following "activities as are required" in the second sentence, and substituted "July 31" for "July 1" in the third sentence; inserted present subsection (b); redesignated former subsection (b) as present subsection (c) and rewrote such subsection.



**Chapter 168.**

**Handicapped Persons.**

**ARTICLE 3.**

*Family Care Homes.*

**§ 168-20. Public policy.**

**Legal Periodicals.** — For survey of 1981 property law, see 60 N.C.L. Rev. 1420 (1982).



GENERAL STATUTES OF NORTH CAROLINA

STATE OF NORTH CAROLINA

DEPARTMENT OF JUSTICE

Raleigh, North Carolina

November 1, 1983

I, Rufus L. Edmisten, Attorney General of North Carolina, do hereby certify that the foregoing 1983 Supplement to the General Statutes of North Carolina was prepared and published by The Michie Company under the supervision of the Department of Justice of the State of North Carolina.

RUFUS L. EDMISTEN

Attorney General of North Carolina

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